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24

THE FAMILY COMPACT

BY W. STEWART WALLACE

Part VII

The Struggle for Political Freedom

THE FIGHT AT MONTGOMERY'S FARM, 1837

THE FAMILY COMPACT

A Chronicle of the Rebellion in Upper Canada

BY

W. STEWART WALLACE

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TO

MY FATHER

CONTENTS

	Page
I. A LOCAL OLIGARCHY	1
II. THE 'JACOBINS'	8
III. THE BANISHED BRITON	27
IV. THE MAITLAND RÉGIME	43
V. A REFORM ASSEMBLY	66
VI. 'ONE OF THE MEMBERS FOR THE COUNTY OF YORK'	74
VII. THE SEVENTH REPORT	93
VIII. THE 'TRIED REFORMER'	100
IX. 'REBEL BLOOD'	114
X. THE OUTBREAK	128
XI. THE AFTERMATH	149
BIBLIOGRAPHICAL NOTE	161
INDEX	165

ILLUSTRATIONS

THE FIGHT AT MONTGOMERY'S FARM, 1837 *Frontispiece*
From a colour drawing by C. W. Jefferys.

JOHN STRACHAN . . . . *Facing page* 30
From a painting in the Department of Education, Toronto.

SIR PEREGRINE MAITLAND . . . ,, 44
From the John Ross Robertson Collection, Toronto Public Library.

WILLIAM LYON MACKENZIE . . . ,, 48
From the painting by J. W. L. Forster.

SIR JOHN COLBORNE, LORD SEATON . ,, 66
From an engraving in the Dominion Archives.

SIR FRANCIS BOND HEAD . . . . ,, 100
From an engraving in the Château de Ramezay.

WILLIAM WARREN BALDWIN . . . ,, 112
From the John Ross Robertson Collection, Toronto Public Library.

JOHN ROLPH . . . . . ,, 138
From a steel engraving in Dent's 'Upper Canadian Rebellion.'

ROBERT BALDWIN . . . . *Facing page* 146

From the John Ross Robertson Collection, Toronto Public Library.

SIR JOHN BEVERLEY ROBINSON . . ,, 154

From a painting in the Department of Education, Toronto.

MARSHALL SPRING BIDWELL . . . ,, 156

From a photograph in the Collection of the Lennox and Addington Historical Society, Napanee, Ontario.

CHAPTER I

A LOCAL OLIGARCHY

THE first forty years of the nineteenth century saw in Upper Canada a political struggle which culminated in armed rebellion. This struggle was, in the main, constitutional: its roots lay in the constitution which William Pitt gave Upper Canada in 1791. The Constitutional Act seemed on the surface a very liberal measure. It gave the people of Upper Canada a Legislative Assembly elected on a wide basis. But what it gave with one hand, it took away with the other. The actual work of government it threw into the hands of a lieutenant-governor and an Executive Council, who were wholly independent of popular control, and who were responsible only, in a vague and nominal way, to the distant secretary of state at Westminster. And even the work of legislation was placed partly in the control of the lieutenant-governor and his advisers. For there was an upper chamber, known as the

Legislative Council, which was able to block any measures passed by the popular Assembly; and the power of nominating the members of this upper chamber was virtually placed in the hands of the lieutenant-governor. Under these arrangements, human nature being what it is, there sprang up inevitably in Upper Canada a governing clique, prone to administer the affairs of the province at its own pleasure, and sometimes in its own interest.

This clique came to be known as the Family Compact. The term, drawn from the alliances between the crowned heads of Europe during the seventeenth and eighteenth centuries, was not only absurd as applied to Canadian party politics, but was even less appropriate than party designations usually are. 'There is, in truth,' confessed Lord Durham, 'very little of family connection among the persons thus united.' The Rev. John Strachan, for instance, one of the leading spirits in the Family Compact for many years, had no family relationships in York until his son married in 1844 the daughter of John Beverley Robinson. Nor was there the nepotism among the Family Compact that has been commonly imagined. 'My own sons,' testified John Beverley Robinson, 'have never

applied, and I have never applied for them, to the Government for any office of any kind, and they none of them receive a shilling from the public revenue of the country in which I have served so long.' But however inappropriate the term Family Compact may be, it has become part and parcel of Canadian history; and in the following pages it is used to denote, without offence, the governing class of Upper Canada from 1800 to 1841.

Just when the name first came into use is not certain. Its origin has generally been attributed to William Lyon Mackenzie, who in his *Sketches of Canada and the United States*, published in 1833, gave a list of thirty public men in the colony between whom a relationship could be traced, and asserted that 'this family compact surround the lieutenant-governor and mould him like wax to their will.' This, however, was certainly not the first use of the term. As early as the year 1828 it occurs in a letter written by Marshall Spring Bidwell to Dr William Warren Baldwin. 'I think it is probable,' wrote Bidwell, 'that I shall have the pleasure of paying my respects to you at York in Michaelmas Term, and I shall be happy to consult with yourself and Mr Rolph on the measures to be adopted to

relieve this province from the evils which a family compact have brought upon it.'[1]

Just when the Family Compact may be said to have taken form is hard to decide. It has been usual to trace its origin to the second period of Francis Gore's régime, when its influence was used to crush Robert Gourlay. But there are good reasons for placing it earlier than this. If it were necessary to put one's finger on the point at which, more than any other, the Family Compact may be said to have come into existence, that point might reasonably be the end of General Hunter's administration in 1805, when an element among the public officials secured the selection of Alexander Grant as president and administrator of the province over the head of Peter Russell, who had been president from 1796 to 1799.[2] It was this element which those in opposition to the government denominated 'the Scotch faction' or 'the clan.' The lieutenant-governor, wrote Robert Thorpe in 1806, is 'surrounded with the same Scotch pedlars, that had insinuated themselves into

[1] Toronto Public Library MSS., B 104, p. 153.

[2] Between the departure of one lieutenant-governor and the arrival of his successor there was often an interregnum, during which a 'President and Administrator' was appointed.

favour with General Hunter, and that have so long irritated and oppressed the people ; there is a chain of them linked from Halifax to Quebec, Montreal, Kingston, York, Niagara and so on to Detroit—this Shopkeeper Aristocracy has stunted the prosperity of the Province and goaded the people until they have turned from the greatest loyalty to the utmost disaffection.' In another letter he described the lieutenant-governor as 'surrounded by a few half-pay Captains, men of the lowest origin with every American prejudice and every idea of military subjection, and directed by half a dozen storekeepers, men who have amassed wealth by the plunder of England, by the Indian Department and every other useless Department, by a Monopoly of Trade and extortion on the people ; this shopkeeper aristocracy who are linked from Halifax to the Mississippi, boast that their interest is so great in England that they made Mr Scott (their old Attorney) Chief Justice by their advocate Sir Wm. Grant, that they will keep Lt. Governor Gore in his place, drive me away, and hold the people in subjection.' When every allowance is made here for partisan exaggeration, it is still clear from these statements that there already existed

in 1806 in Upper Canada something strongly resembling the Family Compact of later times.

The principle upon which admission to the charmed circle of the Compact was determined, is indeed a mystery. Birth and family were no 'open sesame.' Charles Burton Wyatt, whose brother was private secretary to the Duke of Wellington, was excluded; while Thomas Scott, who had been a 'Methodist preacher,' and John M'Gill, who had risen from the carpenter's bench, were the moving spirits of the administration. Later, John Walpole Willis, who was married to the daughter of an earl, was given the cold shoulder; while John Strachan, the son of an Aberdeenshire quarryman, sat in the seats of the mighty. The Baldwins, father and son, were as well-born, as wealthy, and as able as any member of the Family Compact; yet from first to last they were in the ranks of opposition. Not even John Beverley Robinson was a sounder statesman or truer gentleman than Marshall Spring Bidwell, the leader of the moderate wing of the Opposition; and Allan MacNab and James FitzGibbon, the commanders of the governmental forces at Montgomery's Farm, were tyros in the art of war by the side of the rebel commander,

Anthony Van Egmond. All that can be said about the Family Compact is that it was a local oligarchy composed of men, some well-born, some ill-born, some brilliant, some stupid, whom the caprices of a small provincial society, with a code all its own, had pitch-forked into power.

CHAPTER II

THE 'JACOBINS'

On October 7, 1804, there occurred on Lake Ontario a marine tragedy which had an important effect upon the political history of Upper Canada. The government schooner *Speedy*, bound for the assizes in the Newcastle district, foundered on that day with all on board forty miles east of York (now Toronto). Among those lost were Thomas Cochran, one of the judges of the court of King's Bench, and Angus Macdonell, the member of the Legislative Assembly for the constituency of Durham, Simcoe, and East York. The vacancies thus created in the judicial bench and the parliamentary representation of the province were filled respectively by two men, Robert Thorpe and William Weekes, who may be described as the founders of the Reform party in Upper Canada.

William Weekes was an Irish barrister who had spent some time in New York in the law

office of the famous Aaron Burr. He went to Upper Canada in 1798, and was admitted ('rather hastily and unadvisably,' wrote Francis Gore later) to the provincial bar. He seems to have plunged immediately into provincial politics. In the summer of 1800 he was, according to Richard Cartwright, the chief agent in securing the election of Mr Justice Allcock to the Legislative Assembly. In 1804 Weekes himself came forward for election as the member for Durham, Simcoe, and East York. 'I stand,' he said in his electoral address, 'unconnected with any party, unsupported by any influence, and unambitious of any patronage, other than the suffrages of those who consider the impartial enjoyment of their rights, and the free exercise of their privileges, as objects not only worthy of the vigilance of the legislator, but also essential to their political security and their local prosperity.' He was defeated by Angus Macdonell; but a few months later Macdonell went down on the *Speedy*, and in the by-election, which was held in February 1805, Weekes was elected in his place.

In the House Weekes lost no time in making his influence felt. The very day after he took his seat he gave notice of motion 'that it is

expedient for this House to enter into the consideration of the disquietude which prevails in the Province by reason of the administration of Public Offices.' The motion was lost on division; and the next day the lieutenant-governor, General Hunter, prorogued the House. But when the House reassembled a year later, Weekes once more took up the attack. In the interval which had elapsed General Hunter had died, and a junto of officials, headed by John M'Gill, the inspector-general, and Thomas Scott, the attorney-general, had placed in the presidency of the province a nominee of their own, Alexander Grant. Grant was a weak man, and it was expected that he would be the tool of his friends. These facts doubtless added edge to the vigour of Weekes's attack. In the first place, he obtained his committee on the state of the province. In it he attacked the administration of the land-granting department, and championed the cause of those United Empire Loyalists and military claimants who found it difficult to get justice in the allotment of lands. He advocated improved communications. He took up the cudgels on behalf of the Methodists and Quakers, who at that time in Upper Canada were under legal

disabilities. He attacked the Alien Bill of 1804, which made a residence in the province of seven years necessary before the franchise could be obtained. But his greatest achievement was the discovery of some irregularities in the public accounts. He found that moneys amounting to £617, 13s. 7d. had been paid out of the provincial treasury. It was not charged that there was any corrupt motive in this 'misapplication' of the public funds; but the House voted that there had been a violation of its rights and privileges, and when Francis Gore assumed the administration of affairs in 1806 he thought it well to replace the money in the provincial treasury.

In this course of opposition to government Weekes did not want for support. He had behind him in the House a little knot of men, foremost among whom were David M'Gregor Rogers and Philip Dorland, the representatives of the Loyalists of the Bay of Quinté district, and Benajah Mallory, a Methodist preacher who in 1812 went over to the American cause. Outside the House he was aided and abetted by Robert Thorpe, the successor of Cochran as one of the justices of King's Bench, and by Charles Burton Wyatt, the surveyor-general.

Thorpe and Wyatt, like Weekes, were both Irishmen. Thorpe was a barrister who had been appointed in 1802 a puisne judge in Prince Edward Island; but his relations with the islanders had not proved happy, and when word reached the Colonial Office of the loss of the *Speedy* and of the death of Cochran, Thorpe was ordered to proceed to Upper Canada to fill his place. He reached York in September 1805. He had not been long in the province before he discovered the existence of some discontent. 'From a minute inquiry for five months,' he wrote to England, 'I find that Govr. Hunter has nearly ruined this province.' When the provincial parliament met in the beginning of February 1806, Thorpe lent his support to those who were agitating against the government. Although he was not at this time a member of the Assembly, he even aimed at guiding the deliberations of the House. 'In a quiet way I have the reins so as to prevent mischief,' he wrote, 'though like Phaeton I seized them precipitately.' He was constantly within the bar of the House, and Weekes and his friends were in the habit of leaving their seats to consult him. On one occasion, when the clerk of the Executive Council refused to answer

questions relative to transactions in the Council, Thorpe actually rose uninvited and announced to the House that the clerk could be compelled to answer.

Wyatt was hardly less backward in supporting the popular cause. In his administration of the surveyor-general's office, to which he had come out in 1805, he had fallen foul of the Executive Council; and he was only too ready to air before the Legislative Assembly the grievances which he nourished and the abuses of which he complained. He even went the length of producing for the examination of the Assembly's committee, without the permission or knowledge of the president, his commission and the books of his office.

In this course of action Thorpe and Wyatt were probably impelled partly by a genuine desire for reform. Their establishment of an Agricultural and Commercial Society for Upper Canada in the winter of 1805-6 showed that they had the interests of the province at heart. But they were actuated also by personal feelings. They had not received a warm welcome from the Government House set. Moreover, in the summer of 1806, news arrived that the 'Scotch party' had succeeded in putting their attorney-general,

Thomas Scott, into the chief justiceship, a position which Thorpe had confidently counted on getting. When the news arrived, Thorpe's annoyance knew no bounds. 'A being has been put over my head, and made Chief Justice,' he wrote, 'who has neither talent, learning, nor manner.'

Such was the state of affairs when Francis Gore arrived in the province as lieutenant-governor in August 1806. Gore was a retired cavalry officer who had had one year's experience of civil government as lieutenant-governor of Bermuda. His ideas were those of the average English gentleman of his time. 'I have had the King's Interest only at Heart,' he wrote a year after his arrival in Upper Canada, 'and I have [contended] and ever will contend against Democratic principles.' In view of this fact, it was almost a foregone conclusion that he would be repelled by Thorpe's appeal to popular rights. Moreover, when Gore arrived in York, Thorpe was away on circuit, and before he returned the members of the Executive Council had had an excellent opportunity to gain the lieutenant-governor's ear, and to poison his mind against Thorpe and his friends.

Only a few days before Thorpe and Gore

had their first interview, the political struggle, for the first time in Upper Canada, bore tragic fruit. William Weekes, while arguing a case before Thorpe at the assizes at Niagara, allowed himself to descend, apparently, to a political harangue against the government. He described General Hunter, for instance, as a 'Gothic Barbarian whom the providence of God had removed from this world for his tyranny and iniquity.' To all this Thorpe listened 'with the greatest composure.' At the conclusion of Weekes's speech, however, William Dickson, one of the counsel engaged in the case with him, rose and objected to Weekes's language as 'disrespectful in the highest degree to a Court of Justice.' The result of this reproof was that Weekes challenged Dickson to a duel with pistols. At dawn on the 10th of October the two men, with their seconds, met on the eastern side of the Niagara river, behind the American fort. Shots were exchanged, and Weekes fell, mortally wounded.

Thorpe was much blamed for having allowed in court the intemperate language which brought about the duel; and he was even accused of having instigated the challenge. Certainly, the incident did not improve his

standing with Gore. When, on his return to York, he called on Gore at Government House, he met with a reception that was far from conciliatory. The charges and complaints which Thorpe, with indiscreet frankness, brought against the executive government were copied down by the lieutenant-governor's secretary; and the remarks which Gore appended to the interview for the benefit of the secretary of state show that he was already bitterly prejudiced against Thorpe and his party. Nor was Thorpe's opinion of Gore flattering. 'In our first interview,' he wrote, 'I found him imperious, self-sufficient, and ignorant, impressed with a high notion of the old system.'

The death of William Weekes created a vacancy in the constituency of Durham, Simcoe, and East York. Hardly had Thorpe reached York before a requisition was addressed to him by a meeting of the freeholders, asking him to stand for the vacant seat. Without a moment's hesitancy he accepted the invitation. The lieutenant-governor represented to him 'the impropriety of a Judge becoming a candidate for a seat in a popular assembly'; but Thorpe pointed out to him, what was then an undoubted fact, that there was no rule preventing judges from sitting in the legis-

lature, either in England or in Canada, and he declined to alter his decision. The election was bitterly contested. A government candidate was nominated, and every effort was made to have him elected. 'The Lt. Governor and Storekeepers,' wrote Thorpe, 'worked with all their force against the people, every species of undue influence, bribery, coercion and oppression, was used by them, the Lt.Governor himself demeaned by trying to seduce both high and low.' On the other hand, Gore charged that Thorpe and his friends went to the poll under the banner of the Irish rebels, a harp without the crown, and that they made seditious references to the American Revolution and the fate of Charles the First. Thus for the first time we find the governor's party employing against the Reformers that weapon which was later to become so familiar and so deadly, the charge of disloyalty.

The result of the poll was the triumphant election of Thorpe. This rebuff to the lieutenant-governor was the signal for strong measures on his part. He seems at this time to have made up his mind that the Opposition must be crushed. In the first place, he denied the 'Jacobins,' as Thorpe's party now came to be called, the freedom of the press.

He allowed to be printed in the *Upper Canada Gazette and Oracle* a post-election address of Thorpe's opponent charging Thorpe and his friends with disloyalty; but when Thorpe's friends sent an answer rebutting this charge, it was refused admission to the paper by order of the lieutenant-governor's secretary. In the second place, he dismissed or suspended from office two of the government officials who had supported Thorpe's candidature. These two officials were Surveyor-General Wyatt and Joseph Willcocks, sheriff of the Home district.

The charges against Wyatt were several. He was charged with having taken the books of the surveyor-general's office before a committee of the House without the government's permission, and with having defended his action on the ground that 'the House of Assembly was omnipotent and it was his duty to obey it.' He was accused of having substituted his own name for that of another in the books of the surveyor-general's office, with the object of getting a favourable grant of land—an action which, though perhaps irregular, he explained later to the satisfaction of the secretary of state. And he was accused of having dismissed the chief clerk in the

surveyor-general's office because he had voted for Thorpe's opponent—a charge which Wyatt easily disposed of, as he had recommended the clerk's dismissal a month before the election took place. The truth is that the head and front of Wyatt's offending was his support of the Thorpe party while he was an officer of government.

Against Willcocks no specific charges were levelled. He was dismissed merely on account of his general character and his support of Weekes and Thorpe. Gore described him as 'an United Irishman, who fled from *Thomas* Street, got on in Upper Canada as a clerk to the Receiver General, was turn'd out by him. Was a sort of upper servant afterwards to Mr Allcock, who to provide for him got him appointed sheriff.' He seems to have been at heart a republican; and Gore obtained affidavits showing that one evening after dinner, at the house of John Mills Jackson in Yonge Street, he had inveighed bitterly against the governor and 'his damned Scotch faction.' Such expressions as 'Damn the Governor and the Government; push about the bottle,' and the avowal of republican principles, would not perhaps be regarded to-day as serious offences. But in 1807 the horrors of the French Revolu-

tion were still so recent that it is possible to understand how Gore thought it necessary to remove a republican like Willcocks from his official position.

In the spring of 1807 Wyatt returned to England, in company with John Mills Jackson, to lay his case before the authorities. Both men had influence at Westminster. Wyatt expected, through his father and brother, to obtain influence at court and with the ministry, and Jackson's brother was a member of the House of Commons. Jackson was a very interesting figure. He was a gentleman commoner of Balliol College, Oxford, and a man of some wealth. He had gone to Upper Canada in 1806, but had promptly fallen foul of the government over a grant of land, and had joined hands with the Thorpe party. His republican sentiments had earned him the soubriquet of 'Jacobin Jackson.' In England both Wyatt and Jackson had interviews with Lord Castlereagh, who was then in charge of the Colonies; but though it looked for a time as though they might succeed in bringing about Gore's recall, they found that the wheels of government moved very slowly, and Wyatt had in the end to turn to the law-courts for redress. Jackson caused the question of the

administration of Canada to be brought up in the House of Commons; and he published a pamphlet entitled *A View of the Political Situation of the Province of Upper Canada*, which, on account of some indiscreet statements, was unanimously voted a libel by the Upper Canada Assembly. Many years later Jackson returned to Upper Canada, and took up land on Lake Simcoe: Jackson's Point, now a popular watering-place, is named after him.

While Wyatt and Jackson were seeking to obtain redress in England, Thorpe and Willcocks were continuing the struggle in Upper Canada. The provincial parliament met in the beginning of February 1807. The session had hardly begun when an attempt was made to upset the election of Thorpe to the Assembly on the ground that judges were not eligible to sit. The Assembly confirmed him in his seat, but it gave him little support during the session. On one occasion he stood alone in a division in the House. There is good reason for believing that a judicious distribution of the loaves and fishes among members of the House had contributed to bring about this result.

In March 1807 Gore wrote to the secretary

of state asking that Thorpe should be suspended, and prophesying that the most serious evils would ensue if he were allowed to retain his position. The only charge against him was that of his opposition to the government while retaining a seat on the judicial bench. In July the lieutenant-governor, although he had not received the decision of the secretary of state, left Thorpe's name out of the commission of assize. Thorpe was already in financial difficulties, owing to his large family and the inadequacy of the emoluments attaching to his position; and this action, which robbed him of his pay as judge on circuit, reduced him to serious straits. In the autumn news reached York through unofficial channels that Thorpe's suspension had been determined upon by Lord Castlereagh. The news was conveyed to Thorpe by William Dummer Powell, one of his fellow-judges, and he was given to understand that Gore was willing to grant him leave of absence and money to take him back to England before the official notification should arrive. Thorpe, however, declined to put himself under any obligation to Gore; but after publishing an address to the electors of Durham, Simcoe, and East York announcing that he had been

suspended as a result of misrepresentation on the part of the lieutenant-governor, he abruptly left the colony. He returned to England, and was there given the post of chief justice of Sierra Leone, a position of nearly twice the value of that of puisne judge in Upper Canada. Both Wyatt and Thorpe brought actions for libel against Gore in the courts in England; and both of them obtained verdicts in their favour, Wyatt for £300, Thorpe for a lesser amount. Gore's expenses in these suits were, after some demur, paid by the British Treasury.

On the departure of Thorpe, Willcocks was left to fight the battle single-handed. Since the columns of the *Upper Canada Gazette* were closed to the popular party, Willcocks had founded, in August 1807, a paper entitled the *Upper Canada Guardian, or Freeman's Journal*, the first of a long line of party newspapers in Upper Canada. As far as is known, there is only one copy of this paper in existence. It seems to have been printed at first on the American side of the border; and there is reason for believing that Willcocks obtained the funds for carrying it on from the Irish republican leaders in New York. It evidently obtained a good circulation, for in 1809

William Dummer Powell found it in every house as he went on circuit.

In the parliamentary session of 1808 Willcocks entered the Legislative Assembly as one of the members for Lincoln, Haldimand, and West York. It was not long before he embroiled himself with the majority in the Assembly. On January 29 a paragraph in the *Upper Canada Guardian*, in which it was charged that the members of the Assembly had been bribed by the lieutenant-governor, was brought to the attention of the House. A prosecution of Willcocks was talked of, but was dropped, apparently at the request of Gore ; but when Willcocks repeated the statements he had made, he was tried by the House, and was unanimously found guilty of using expressions that were ' false, slanderous and highly derogatory to the dignity of this House.' By the speaker's warrant he was committed to the common jail, and there he languished until the end of the session.

Willcocks remained a member of the Assembly until the War of 1812. He was one of those members who obstructed the government during the session of 1812 in its attempt to suspend the operation of the Habeas Corpus Act. The statement has been made that

Willcocks fought on the British side at the battle of Queenston Heights; but this may be doubted. Certainly, early in 1813, he was found in the American ranks. In 1814 he was killed while wearing the uniform of a colonel of the American army at the siege of Fort Erie. On him it is difficult to pass a fair judgment. He was a renegade and a republican, but he had seen little in Ireland or in Upper Canada to commend to him monarchical institutions.

Nothing is more striking about these early opponents of government than the predominance among them of men of Irish blood. Weekes, Thorpe, Wyatt, Willcocks were all Irishmen. There is even reason for believing that racial jealousy between the Scotch and the Irish was one of the roots of the trouble in Upper Canada in 1806. All these men had the defects of the Irish race. They were turbulent, headstrong, and indiscreet. Like the later Reformers, they made grave mistakes. None of them should have attempted to carry on an agitation against the government while in the government's employ. But they had, in the main, the interests of the common people of Upper Canada at heart. They were not a disreputable or, on the whole, a disloyal

party. The fact that they numbered among their supporters at first William Jarvis, the secretary of the province, Dr William Warren Baldwin, the father of Robert Baldwin, and the Rev. Robert Addison, the rector at Niagara, is proof that they were not merely noisy agitators.

The Family Compact was latent in the Constitutional Act of 1791. In 1806 it was just budding. In John M'Gill and Thomas Scott may be recognized the forerunners of the Family Compact of the twenties and thirties; Francis Gore was, in some respects, a prototype of the later lieutenant-governors; and William Weekes, Robert Thorpe, and Joseph Willcocks are the true predecessors of the rebels of '37.

CHAPTER III

THE BANISHED BRITON

For ten years after the events of 1806-7 there was no political disturbance in Upper Canada of any moment. It was not until 1817 that Robert Gourlay came into the province. The story of Gourlay is one of the most painful passages in the history of Family Compact rule in Upper Canada. It is so painful that it is difficult to understand, in the light of the twentieth century, the attitude of mind which made it possible for men like Peregrine Maitland, John Strachan, William Dummer Powell, and John Beverley Robinson to play the parts in it which they played.

Robert Gourlay was a Scotsman of good birth, good education, and good intentions. His father had been a writer to the signet in Fifeshire. He himself was a graduate of the University of St Andrews; and the great Thomas Chalmers, who had been his friend and classmate, afterwards described him as

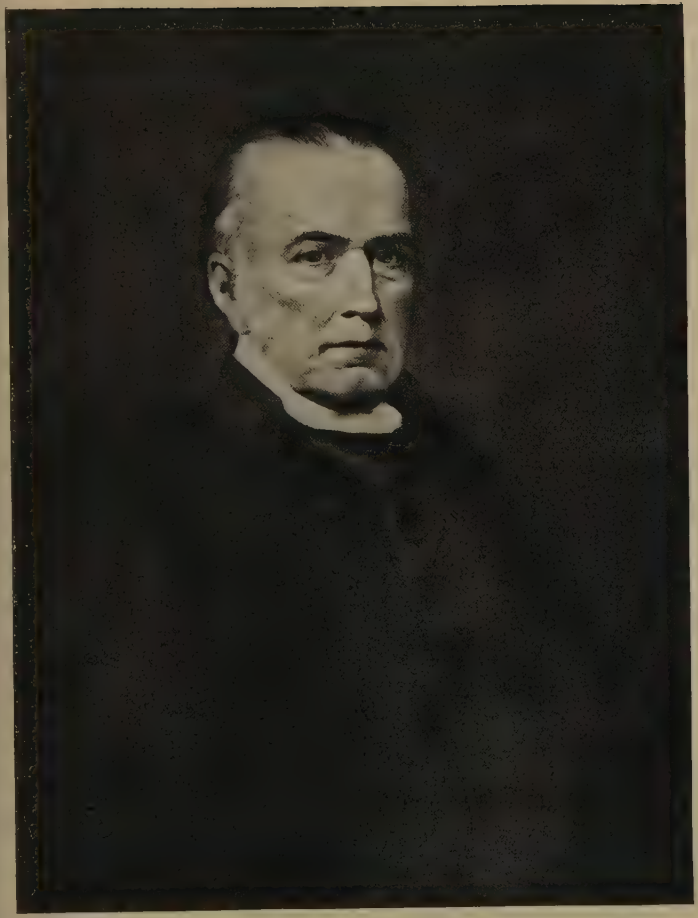
'one of the ablest of my fellow-students.' At the age of thirty-seven he was reduced through misfortune to comparative poverty, and he determined to emigrate to America. He settled in Upper Canada, and immediately set up in business as a land-agent. In connection with his business he began to formulate a scheme for systematic emigration from the British Isles to Canada. He had been attached in Great Britain to the commission appointed to inquire into the causes of pauperism; and he believed that systematic emigration to the colonies would relieve the over-population which was thought to be at the root of the economic evils from which Great Britain was suffering, and would at the same time supply Canada with that labouring population of which she stood most in need. It was in pursuit of this scheme that Gourlay first came into conflict with the Family Compact party of that time.

The governing clique of Upper Canada in 1817 was not greatly different from what it had been in 1807. Thomas Scott had retired from the chief justiceship and the Executive Council; but his place had been taken by William Dummer Powell, long a faithful adherent of the governor's party. John M'Gill

and James Bâby still remained members of the Executive Council, though both were growing old and the reins were slipping from their hands. D'Arcy Boulton, who had been solicitor-general in 1807, was attorney-general in 1817. The new faces among the leaders of the party were those of John Strachan and John Beverley Robinson. Strachan was an Aberdeenshire schoolmaster who had emigrated to Canada as early as 1799, and who had carried on a school at Kingston, at which the sons of many of the leading families in Upper Canada were educated. He had taken orders in the Church of England, and by his great force of character had rapidly risen to importance. In 1812 he had yielded to the solicitations of Gore and Brock, and had accepted the charge of the church at York. In 1815, on the recommendation of Gore, he had been appointed to a seat on the Executive Council; and from the first he had exercised over that body a powerful influence. He was a man of whom it is difficult to form a fair opinion: he had, in his own way, high ideals, but he had also a good idea of feathering his own nest, and his influence on the course of public affairs in Upper Canada was almost uniformly pernicious. John Beverley Robin-

son was a pupil and protégé of Strachan's. He was a young man of brilliant abilities and high character, whom Strachan had hailed as 'a second Pitt.' In 1817 he had become solicitor-general.

To this ruling party Robert Gourlay first gave offence by addressing a circular letter, containing thirty-one questions, to the various townships of the province. His object was merely to obtain information which would assist him in his immigration schemes. The questions seem nowadays innocent enough; but unfortunately the thirty-first question, which ran, 'What in your opinion retards the improvement of your township in particular, or the province in general, and what would most contribute to the same?' was regarded as an attack upon the government. And it so happened that the answers which were received to this question revealed the existence of a considerable amount of discontent in the province. As Robert Thorpe had prophesied ten years before, the administration of the Crown Lands department had begun to bear evil fruit. In every township two-sevenths of the land had been set apart as crown and clergy reserves, and of the rest large blocks were held by speculators and by government



JOHN STRACHAN

From a painting in the Department of Education, Toronto

officials. Only a fraction of each township, under these circumstances, had been settled; and the townships could not secure a population of sufficient density to maintain roads, schools, and churches. The vacant lands, moreover, were not taxed, and the whole burden of taxation fell on the resident settlers. When John Beverley Robinson in 1818 introduced a bill into the Legislative Assembly proposing to tax vacant lands, the vested interests were strong enough to defeat the bill by an overwhelming majority.

These were real grievances; and if Gourlay had possessed common prudence, he might have effected much good by his inquiries. But, unhappily, common prudence was what he lacked most. Although he had been in the province for only a few months, he rushed into print, and assailed the administration of affairs in language which certainly lacked urbanity. He earned the bitter enmity of Strachan, for instance, by describing him as 'a lying little fool of a renegade Presbyterian.' When he had his pen in hand he possessed neither tact nor moderation. 'With regard to sound principles of emigration,' he wrote candidly to Wilmot Horton, one of the officials of the Colonial Office, 'you are as blind as a

mole.' 'Corruption,' he announced in one of his pamphlets, 'has risen to such a height in the province, that it is thought no other part of the British Empire witnesses the like.'

In the spring of 1818 Gourlay brought his agitation to a climax by issuing a call to the 'resident' landowners to send up delegates to a provincial convention to be held at York, for the purpose of discussing grievances and of drawing up a petition to be forwarded to the Prince Regent in England. The convention met, and was widely attended. The delegates were mostly men of respectable standing, half-pay officers, militia veterans, and gentlemen-farmers. They drafted an address to the Prince Regent in which their grievances were stated. They complained, in the first place, of the abuses connected with the granting of lands and the settlement of the colony; and they complained also of the failure of the British government to meet the claims for losses sustained by the Canadian militia during the War of 1812. Finally, they prayed that a royal commission should be sent out to inquire into the condition of Upper Canada. This address was published in the American newspapers, and so reached the ears of the public in England. It was largely

owing to the attention it created that the British government took up the question of the militia claims the next year, and that a settlement was arrived at.

At the time of this convention Gourlay became a sort of popular hero. 'He was idolized by the Canadians,' wrote an Englishman in Canada, 'as much as ever Bonaparte was by the French.' It was clear that discontent was gathering head, so much so that Sir John Sherbrooke, the governor-general of Canada, residing in the lower province, actually contemplated a visit to Upper Canada to deal with the situation. The difficulty hitherto had been that Gore had left the province in 1817, and since that time the government had been in the hands of an administrator, Samuel Smith. Smith had been loath to proceed to strong measures against Gourlay, in spite of pressure brought to bear upon him by Strachan; but after the meeting of the convention and the publication of the address to the Prince Regent, Smith agreed to the prosecution of Gourlay for a libel on the government.

It was while this charge was hanging over Gourlay's head that Sir Peregrine Maitland arrived in Upper Canada as lieutenant-

13931

governor. Maitland was an able soldier and a man of charming personality; but he was a reactionary Tory of the type then dominant, not only in England, but all over Europe. It was not to be expected that he would have much in common with a Scotch Radical like Gourlay, and he seems to have accepted the Family Compact view of Gourlay from the first. He had been in the province only a few days when he wrote home describing him as 'half Cobbett, half Hunt'; and when Gourlay was acquitted at Kingston, on August 15, 1818, of the charge of libelling the government, Maitland wrote home expressing his regret, but announcing his hope that Gourlay would be crippled by a second prosecution to be brought against him shortly for libel upon a private person. His hope was ill-founded, however, for so great was Gourlay's popularity that it was found impossible to get a jury to convict him.

Defeated in the law-courts, the government turned to other avenues of attack. When the provincial parliament met on October 12, 1818, Maitland told the members that he did not doubt that 'they would feel just indignation at the attempts which had been made to excite discontent and organize

sedition'; and he suggested that such conventions as that which Gourlay had called might be made illegal. The Assembly took up the suggestion; and while they maintained theoretically the right of petition, they denied it practically by resolving that 'the Commons House of Assembly is the only representation of the people,' and that such conventions as that which Gourlay had called were unconstitutional. Legislation was actually passed which constituted such public meetings a misdemeanour.

This Act, which remained on the statute-book for only two years, was fearlessly attacked by Gourlay. In the columns of the *Niagara Spectator* he assailed the action of the legislature in an article entitled 'Gagged, gagged, by jingo!' The language of the article was severe, but no severer than leaders which appear every morning and evening in Opposition newspapers to-day. The article was, however, promptly voted by the Assembly to be a libel, and the attorney-general was instructed to prosecute the editor of the *Spectator*. This unfortunate man, whose name was Bartemus Ferguson, had not really been responsible for the appearance of the article complained of. It had been published,

under Gourlay's name, during Ferguson's absence and without his knowledge. Yet Ferguson was arrested in his bed, in the dead of night, carried to Niagara, and thence to York, where he had difficulty in finding friends to bail him out; and in the summer of 1819 he was tried at Niagara and sentenced to pay a fine of £50 and to undergo eighteen months' imprisonment: during the first month of this time he was to stand in the public pillory for one hour a day, and at the end of the eighteen months he was to give and find security for his good behaviour to the amount of £1000.

Gourlay was, however, the chief culprit, and it was not intended that he should get off with impunity. On December 21, 1818, he was arrested and brought before two legislative councillors, William Dickson and William Claus, as an 'evil-minded and seditious person' under the meaning of the Alien Act of 1804. The Alien Act was an obsolete law of doubtful constitutionality, directed against the disaffected Irish and American immigrants who had flocked into the colony in early days. It gave authority to certain officials, and among them to members of the Legislative Council, to issue a warrant for the arrest of

any person, not having been an inhabitant of the province for the preceding six months, who had not taken the oath of allegiance and who was suspected of sedition. In case the person so arrested failed to establish his innocence, he might be notified to leave the province within a specified time; and if he failed to depart, he was to be imprisoned until the time of the general jail delivery. If found guilty, upon trial, he was to be banished from the province, under penalty of death.

Dickson and Claus had both been friends of Gourlay, but in some unknown way Gourlay had alienated them. Whether their action in arresting Gourlay was taken at the instigation of the government party at York cannot be determined. Maitland, at any rate, seems to have had no hand in it. It is fortunate for his reputation that this is so, for the prosecution was a very reprehensible business. Dickson and Claus both knew that Gourlay was loyal to the British crown, and that he did not come under the provisions of the Alien Act. In order to convict him, perjured evidence was necessary. This was obtained from Isaac Swayzie, a disreputable and illiterate member of the Legislative

Assembly, who was a hanger-on of the government. Swayzie swore that Gourlay had been domiciled in the province less than six months, although it was a matter of common knowledge that he had been a resident of Upper Canada for eighteen months. Swayzie also gave testimony that Gourlay was a seditious person. The trial was the veriest farce, and Gourlay was condemned to leave the province within ten days.

To submit to this sentence would have ruined Gourlay's business. It would have been a tacit acknowledgment of guilt and a denial of his natural allegiance. He determined, therefore, to ignore the verdict. The result was that when the ten days had passed he was arrested and thrown into jail. After some delay he caused himself to be taken, under a writ of habeas corpus, before Chief Justice Powell at York, for the purpose of being either discharged from custody or admitted to bail. He presented excellent evidence to the effect that he had been domiciled in the province for more than six months, that he was a loyal British subject, and that he had taken the oath of allegiance. There could hardly have been a clearer case. But Gourlay's release at this time would have been

regarded as a triumph for him and a defeat for the government. Chief Justice Powell therefore remanded Gourlay to jail, on the technical plea that the warrant of commitment was regular and that the Act made no provision for bail.

Gourlay then attempted to bring actions against Dickson and Claus for false imprisonment; but here, too, he was defeated by legal chicanery. The defendants each obtained an order for security for costs, and Gourlay, lying in jail, with his business going to ruin, was not able to raise this security. The actions therefore lapsed, and Dickson and Claus escaped prosecution.

It was not until August 20 that Gourlay's trial took place. During the months that intervened he lay in jail at Niagara. The close confinement and the mental distress which he suffered seem to have affected both his mind and his health. During his imprisonment he was attacked frequently by violent headaches, and no attempt seems to have been made to alleviate for him the prison conditions of that time. When he came up for his trial, he was a wreck of his former self and was not in full possession of his faculties. During the progress of the trial he appeared

to be only half-conscious of what was going on. He had a written defence and protest in his pocket, but he seems to have forgotten to use it. He does not even appear to have heard the verdict of guilty. And when Chief Justice Powell, who was presiding, asked him if he had any statement to make before judgment should be rendered, he burst into a loud peal of maniacal laughter. It must have been clear to every one in the court-room that Gourlay was not in his right mind. Yet no considerations of mercy seem to have affected the determination of the court officials to secure his conviction. John Beverley Robinson, the attorney-general, who conducted the prosecution, based his case not on the ground of Gourlay's guilt within the meaning of the Alien Act, but on the technical ground of his having refused to leave the province when ordered to do so. There is reason to suspect that the sheriff packed the jury. And neither Chief Justice Powell nor Sir Peregrine Maitland lifted a finger to see that Gourlay obtained fair play.

The sentence of the court was that Gourlay should leave Upper Canada within twenty-four hours, on pain of death without benefit of clergy. The next day he crossed to the

American side of the Niagara river. He went first to Boston, where he published an account of his persecution under the title of *The Banished Briton*. Thence he went to the British Isles, where he published in 1822 his *Statistical Account of Upper Canada*, a valuable work which embodies the information he collected in 1818. He proved to be very much a rolling stone. In 1837 he was living at Cleveland, Ohio; and it is interesting to know that at that time, in spite of what he had suffered, his sympathies were still British. After the Union of 1841 his case was taken up by the Canadian parliament, and his arrest and sentence were pronounced 'illegal, unconstitutional, and without possibility of excuse and palliation.' In 1856, when an old man of seventy-eight years, he returned to Canada, and a pension of £50 was granted him; but this pension he never drew.

Robert Gourlay had grave defects of character. Like William Lyon Mackenzie, he was a confirmed grievance-monger. He was pugnacious, tactless, and extravagant in his language. But the head and front of his offending was his criticism of the government, and it is not now necessary to remark that criticism of the government is

not at English common law a crime. If the leaders of the Family Compact party had remembered this fact in 1818, they would have deserved better at the hands of historians.

CHAPTER IV

THE MAITLAND RÉGIME

SIR PEREGRINE MAITLAND was a Tory of the Tories. In our time, when a governor makes no attempt to rule, he might have proved an ideal official, for he performed the ceremonial duties of viceroyalty to perfection. But from 1818 to 1828, when the actual administration of public affairs was in the hands of the lieutenant-governor, his régime was reactionary and autocratic. For this, however, Maitland was not wholly to blame. He had had little experience of civil government, and he leaned heavily on the advice of those about him: probably at no period was the influence of the Family Compact over the lieutenant-governor greater than under his régime. And it should never be forgotten that this was the period when the reactionary ideas of Wellington and Metternich were dominant, not only in England, but in the whole of Europe; and that Maitland and his advisers, in their

political views, were merely the children of their time.

Maitland regarded it as incumbent upon him to suppress liberal opinions. The persecution of Gourlay was, of course, the outcome of such a policy; but persecution did not stop with Gourlay. An instructive case was that of the militia officers who had attended Gourlay's convention in 1818. They were all men who had fought in the War of 1812, and had suffered losses in their support of the British crown. They had attended the convention partly in order to protest against the delay on the part of the British government in granting them compensation; and it was largely owing to their efforts that compensation in the form of grants of land was made in 1819. Yet when Maitland received orders to grant this compensation, he and the Family Compact leaders took it upon themselves to refuse allotments of land to all those who had taken part in the convention.

An attempt was made also to prevent the election to the Legislative Assembly of persons of 'republican' views. The Assembly had always tended to be democratic: as early as in 1792 Simcoe had noted a tendency on the part of the people to elect as their representa-

SIR PEREGRINE MAITLAND

From the John Ross Robertson Collection, Toronto Public Library

tives men who 'kept one table'—that is, who ate with their servants. But except for one or two short periods, the executive had been successful in maintaining a majority in the Assembly. Some alarm was felt, however, when in 1821 a by-election occurred in Lennox and Addington. This was a United Empire Loyalist constituency; but the United Empire Loyalists were by no means all supporters of the Family Compact. The member elected was Barnabas Bidwell. Bidwell was a man of unusual ability and superior education: he had been attorney-general of Massachusetts and a member of the United States Congress. In 1810 his political enemies had accused him of misappropriation of public money, and to avoid the consequence of this accusation he had fled to Canada, where, on the outbreak of the War of 1812, he had taken the oath of allegiance. He had been a friend of Robert Gourlay, and was known to be strongly opposed to the policy of the Upper Canada government. When he took his seat in the House his election was promptly challenged, on the ground that he was a person of immoral character and a fugitive from justice, and that he had taken the oath of citizenship in the United States. It appeared in the proceedings that the govern-

ment had gone so far as to send an agent to Massachusetts to collect evidence against him. Bidwell, for his part, contended that the charges were those of his political enemies, and that the fact of his having at one time been a citizen of the United States was no bar to his admission to the Canadian legislature. A motion for his expulsion was, however, brought forward, and after a long debate it was carried by a majority of one vote. When a new election was ordered, and the son of Barnabas Bidwell, Marshall Spring Bidwell, attempted to take his father's place, he too was declared ineligible for election, because he had been born in Massachusetts and had never taken the oath of allegiance; and it was only when the election law was amended in 1824 that he was enabled to sit.

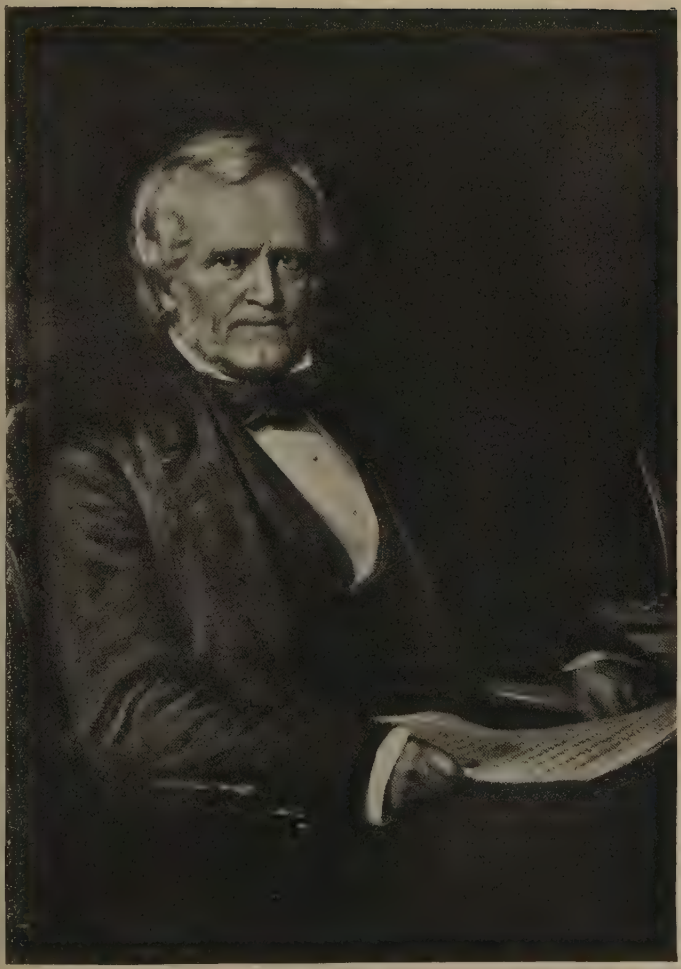
In the last parliamentary session which took place before the elections of 1825 a very unwise action was taken by the governing party in regard to religious disabilities. The view which had hitherto obtained was that the Church of England was established by law in Canada. Some colour was lent to this view by the language of the Constitutional Act; and from the earliest times the governing clique had been composed of members

of the Church of England. One of the disabilities under which the Methodists and other nonconformists suffered was that their ministers could not solemnize marriages. In the session of 1824 a bill was passed by the Assembly removing this disability, and giving to marriages conducted by Methodist ministers the legality which they had hitherto lacked. But this very just provision was thrown out by the Legislative Council, apparently with the full approval of the government. The Methodists were then, as now, a powerful political element in the province; and apart from the question of religious equality, this discrimination against them was, on the part of the government, a piece of egregious folly.

The result was that the elections of 1825 saw the return to parliament of a number of men strongly opposed to the government. The United Empire Loyalists of Lennox and Addington sent up two advanced reformers in the persons of Marshall Spring Bidwell and Peter Perry. Bidwell was one of the noblest spirits that ever crossed the threshold of Canadian history; Perry was a man of much humbler education, but of real eloquence and common sense. Middlesex sent up John Rolph and Captain John Matthews.

Rolph was a young Englishman of great ability and subtlety of mind, who was destined to become one of the founders of modern medical science in Upper Canada, and one of the leaders of rebellion in 1837. Matthews was a retired officer of the royal artillery, who was destined to be the first of that little band to fall a victim to the Family Compact. Dr William Warren Baldwin had had a seat in the previous parliament, but to this House he was not elected. Many years had passed by since Francis Gore had described him as 'an Irishman ready to join any faction'; yet his interest in the cause of Reform had never faltered, and he was always ready to help the Opposition to the best of his ability. His high public character was a great asset to them: 'I have frequently heard him named,' wrote an English visitor, 'the only honest man in the Province.'

It was at this time that William Lyon Mackenzie first attracted attention by his advocacy of Reform in his newspaper. Mackenzie was a Scotsman who had come to Canada in 1820 at the age of twenty-five years. He had begun life in the old country as an assistant in a draper's shop. In Canada he went into business as a chemist and book-



WILLIAM LYON MACKENZIE

From the painting by J. W. L. Forster

seller, first at York and then at Dundas; but in 1824 he cast aside his prospects of success in business and embarked on the precarious enterprise of publishing a newspaper. The name of the paper was the *Colonial Advocate*, and it was published first on May 18, 1824, at Queenston. In it he began that propaganda which was to culminate in the events of '37. He was a born agitator. Fearless even to recklessness, wholly indifferent to his own interest, public-spirited according to his own lights, extravagant in his language, he was precisely the sort of man who was likely to obtain an ascendancy over the common people of Upper Canada at that time. He was not a clear political thinker; he was governed often by personal pique; his utterances were lacking sometimes in tact and good taste. Men like Bidwell and the Baldwins found little in common with him. But his influence was nevertheless great; and his little wiry figure, filled with a veritable St Vitus's dance of nervous energy, and surmounted by a large head set with burning blue eyes, commanded attention then, as it commands attention now.

The outbreak of a reforming spirit in 1824 brought with it the usual aftermath of perse-

cution by the government. The first victim was Captain Matthews. Matthews, though a half-pay officer, had aligned himself with the Reformers in the House, and had made himself obnoxious to the heads of the government. On New Year's Eve 1825 he gave the government a chance to strike at him. A company of travelling actors from the United States had been stranded in York, and on New Year's Eve they gave a performance, under the patronage of the Legislative Assembly, to enable them to leave town. Matthews, who had been dining very well, attended the performance with many other members of the House. The occasion proved very convivial. The band was called upon to play many tunes, among them 'Yankee Doodle' and 'Hail Columbia.' 'Hail Columbia' they were not able to play, but 'Yankee Doodle' was rendered amid great enthusiasm. During the performance some one called for 'hats off,' and Matthews was one of those who complied with the demand. There is no doubt that his behaviour was prompted by mere hilarity. Yet for this innocent offence of having called for the national anthems of the United States on New Year's Eve, Matthews had his pension stopped, and was himself ordered back to

England. He succeeded in having his pension restored, but he never again set foot on Canadian soil.

One of the most striking features of the persecution to which the Reformers were subjected was its pettiness. Because Charles Fothergill, the king's printer, had given several votes in the House that did not meet the approval of the government, he was dismissed from his position; because Francis Collins, the official reporter of the House, had attacked the government in his paper, the *Canadian Freeman*, he was denied the remuneration regularly voted to him by the legislature; and because William Lyon Mackenzie had made himself obnoxious to the lieutenant-governor, he was refused the grant voted to him by the legislature for publishing the debates.

The most famous political incident of this period, however, was the destruction of William Lyon Mackenzie's printing-press at York on June 8, 1826. The *Colonial Advocate*, which had not been a financial success, had been moved by Mackenzie from Queenston to York in the preceding November. Its tone had given great offence in government circles. This was due, however, not so much to the political views it contained as to the personal

abuse with which those views were accompanied. Mackenzie was never able to dissociate the sin from the sinner. He assailed public men with whom he had no private difference as if they were his bitterest personal enemies. In the early summer of 1826 his newspaper broke into a carnival of abuse of some of the most respectable families of York, abuse so gross that it did not deserve to be noticed. On the evening of June 8, however, when Mackenzie was absent from town, a number of young men, most of them sons or protégés of leading members of the Family Compact party, and one of them the private secretary of Sir Peregrine Maitland, entered the office of the *Colonial Advocate* and proceeded to demolish the printing-press, to upset the type, and to scatter some of it into the bay. There is no doubt that these young men took this action on their own initiative. It is a mistake to regard the episode as an instance of political persecution on the part of the Family Compact. It was merely an attempt, on the part of a number of well-meaning youths, to teach Mackenzie, as they thought, a much deserved lesson in public manners.

At the same time, it was a grave error in

judgment, a fact which the rioters themselves were among the first to recognize. In the first place, it roused sympathy for Mackenzie. He had been out of town when the attack on his press took place, and the scurrility of his paper was either forgotten or condoned in view of the loss he had suffered. It was inevitable, too, that the attack should be given a political complexion. In the second place, the destruction of the press proved the means of setting Mackenzie on his feet financially. When the attack took place he was on the verge of bankruptcy, and it is doubtful if he could have continued the publication of the *Advocate* much longer. Now, on the advice of his friends, he brought against the rioters not a criminal action, but a civil action for damages. The trial took place in the autumn of 1826. The lawyers for the defence made no attempt to deny the fact of the trespass, and did not, from motives of delicacy, submit to the court all the passages in the *Advocate* which had given rise to the trespass. The result was that the jury awarded to Mackenzie heavy damages—£625. This was far in excess of the value of the property destroyed, and the verdict must have been due in part to political feeling. The amount was raised by

subscription among the members of the Family Compact party ; and Mackenzie was launched forth once more, with a new press and a new bank account, on his turbulent journalistic career.

Mackenzie was not the only journalist with whom the governing class had trouble. In 1825 an Irish Roman Catholic named Francis Collins had established the *Canadian Freeman* in opposition to the government. Collins was a writer who mistook coarseness for vigour, and the general tone of his paper was much lower than that of Mackenzie's. For three years he was allowed to have his say with impunity : then, in the spring of 1828, two indictments were brought against him by the attorney-general, John Beverley Robinson. One was for libel against the lieutenant-governor, whom he had accused of ' partiality, injustice, and fraud.' The other was for libel against the solicitor-general, Henry John Boulton, whom he had accused of murder in connection with a duel in which Boulton had been a second eleven years before.

The case came up on April 11, 1828, before Mr Justice Willis at the York assizes. Willis was an English lawyer who had come to Upper Canada in September of the previous

year as one of the puisne judges of the court of King's Bench. He was a man of good abilities and was well connected: his wife, Lady Mary Willis, was the daughter of the Earl of Strathmore. He had been politely received in York, but he soon found that he was regarded as an interloper. There were a number of men who considered themselves entitled to the position which he had secured. Moreover, Lady Mary Willis does not seem to have made herself a *persona grata* with Lady Sarah Maitland. And when it became known that Willis was a candidate for the chief justiceship of the province, for which John Beverley Robinson was considered in official circles the proper nominee, the gulf between Willis and the official set appreciably widened.

It was at this juncture that the case of Collins came up at the assizes. As soon as Willis took his seat on the bench, Collins rose and asked for permission to speak. When this was granted, Collins began to attack the attorney-general for partiality in the discharge of his duty, pointing out that Robinson was prosecuting him, whereas he had not prosecuted the destroyers of Mackenzie's press. At this point Robinson himself entered the court. When he had gathered the drift of

Collins's speech, he rose, and pointing out that it was entirely irregular, expressed the hope that the business of the court would not be interrupted any longer. Collins, however, proceeded with his speech without interruption; and when he had finished, Willis replied, amid the silence of the court: 'If the attorney-general has acted as you say, he has very much neglected his duty. Go you before the grand jury, and if you meet with any obstruction or difficulty, I will see that the attorney-general affords you every facility.'

The attorney-general rose to defend himself. He pointed out, with perfect self-control, that it was not his business to hunt for indictments. He had followed the practice of proceeding only upon information and complaint, and not of setting the law in operation of his own motion. Willis replied that this merely proved his practice to have been uniformly wrong. At this the attorney-general lost his temper, and answered that he knew his duty as well as any judge on the bench.

'Then, sir,' retorted Willis, 'if you know your duty, you have neglected it.'

Collins took the advice of Willis, and brought his complaints before the grand jury.

The result was that two true bills were found, one against H. J. Boulton and J. E. Small for having been accessory to the Jarvis-Ridout duel, and the other against seven young men for participation in the destruction of Mackenzie's press. The trials took place immediately. Boulton and Small were acquitted of the charge against them; and the 'type-rioters' were let off with a nominal fine of five shillings each. But Collins's vigour in carrying the war into Africa evidently caused the attorney-general to reconsider his course of action. With great good sense Robinson determined to drop the prosecutions against Collins for libel, and to hold over some other actions against Collins which had emanated from the grand jury. 'I will forbear any further action during the present assizes,' he said, 'and in proceeding or not hereafter, I shall be governed in a great measure by the sense which the defendant shall show of his duty and obligations as the conductor of a public newspaper.'

But Collins was not a man who learned by experience. He continued in his paper as violent and defamatory as ever. The attorney-general thereupon revived one of the indictments which had been temporarily dropped.

But in this case Collins was acquitted by the jury. Then Robinson brought against him an action for libel on his own account. Collins had accused Robinson of 'native malignancy' and 'open, palpable falsehood.' These expressions, perhaps, would not now be considered libellous, but in 1828 the jury brought in a verdict of guilty. Collins was sentenced to pay a fine of £50, to undergo imprisonment for twelve months, and to find securities for his good behaviour. This was a heavy sentence; but in view of the forbearance which had been shown Collins at first, it should not be described as excessive.

Long before Collins fell under the penalties of the law, his champion, Mr Justice Willis, had left the province for good. Relations between him and the government had reached a climax when he had declined to sit in the court of King's Bench on the ground that it was improperly constituted. Willis's action was obviously taken with a view to embarrassing the government. At the same time, the Family Compact were only too glad to find a pretext for getting rid of him. He had begun to associate with the Reform element, 'who,' wrote Maitland, 'are not very respectable in any sense'; and there may have

been fears that he would develop into a second Thorpe. The Executive Council therefore recommended his removal, and a writ to this effect was issued on June 26, 1828. A few days later Willis left for England, to lay his case before the Colonial Office. The judgment of the Privy Council went against him, and he was appointed to a judgeship in British Guiana.

The case of William Forsyth created a great deal of attention at that time, and was used as an example of Sir Peregrine Maitland's tyrannical rule. Forsyth was a tavern-keeper on the Canadian side at Niagara Falls. He had encroached upon the government reserve which ran along the bank of the river, had enclosed it with a fence, and had built a blacksmith's shop on it. His action was a gross and impudent invasion of the public domain. If recourse had been had to the law-courts, he would have been summarily ejected. But Maitland merely gave orders to the engineer officer of the district to remove the fence and to demolish the building. The fence was removed, but Forsyth replaced it. A second time it was removed. Then Forsyth brought suit against the sheriff and the officer who had performed the task. Both actions, however, failed on technical grounds.

Forsyth then appealed for redress to the House of Assembly. The Assembly conceived that there were grounds for an inquiry, since there had obviously been an illegal exercise of force by the military. A committee was appointed, and it proceeded to summon witnesses to give evidence. The adjutant-general of militia and the superintendent of Indian Affairs, when summoned to attend, applied to Maitland for permission. This Maitland refused to grant, and the two officers were imprisoned by order of the speaker for contempt of the House of Assembly. Maitland's conduct in refusing to allow these officers to testify, and indeed in using military force in the first place, was severely condemned later by the secretary of state, Sir George Murray. But his actions should be regarded as errors of judgment rather than as wilful tyranny. Certainly, William Forsyth should never be entered on the martyr-roll of Reform.

Two more incidents of Maitland's régime must be noticed. One of these was the publication of the letter and 'ecclesiastical chart' which Archdeacon Strachan sent in May 1827 to the Colonial Office. These documents were composed primarily for the purpose of pressing on the home government the claims of the

Church of England in Canada. There had grown up in Canada, notably among the members of the Church of Scotland, a strong disposition to dispute the exclusive right of the Church of England to the land reserves which had been set apart in 1791 for the support of 'a Protestant clergy,' and Strachan was mainly concerned in combating this view. He argued that the Church of England in Upper Canada was the established church, and should obtain more liberal support from the home government. Unfortunately, he thought it necessary to his argument to blacken the good name of other religious bodies in Upper Canada. 'The teachers of the different denominations,' he wrote, 'with the exception of the two ministers of the church of Scotland, four congregationalists, and a respectable English missionary of a Wesleyan Methodist meeting at Kingston, are, for the most part, from the United States, where they gather their knowledge and form their sentiments. Indeed, the Methodist teachers are subject to the orders of the conference of the United States of America; and it is manifest that the colonial government neither has, nor can have, any other control over them, or prevent them from gradually

rendering a large portion of the population, by their influence and instructions, hostile to our institutions, both civil and religious, than by increasing the number of the established clergy.' These ungenerous imputations were answered by the Rev. Egerton Ryerson, then a young Methodist preacher of only twenty-four years of age, in a pamphlet which he himself described as 'the first defiant defence of the Methodists, and of the equal and civil rights of all religious persuasions; the first protest and argument on legal and British constitutional grounds, against the erection of a dominant church establishment supported by the state in Upper Canada.' A storm of indignation broke about the head of Archdeacon Strachan; and from this time dates the beginning of a Methodist agitation against the monopolization of the clergy reserves by the Church of England, an agitation which continued until the reserves were applied to secular purposes in 1854. Sir Peregrine Maitland himself had no share in the preparation of Strachan's letter and chart, but he was known to be in sympathy with Strachan's views, and so did not escape some of the obloquy which they called forth. It was, indeed, the fact that the governing clique were,

almost to a man, supporters of the Church of England that lent to this religious quarrel its real importance. The cause of the Church of England became identified with that of the Family Compact, and the political quarrel took on some of the bitterness and intensity of the religious quarrel. It will be found that, in what follows, the religious question often affords the clue to the true interpretation of the course of events.

The other incident to be noticed was the agitation over the Naturalization or Alien question. In 1824 the chief justice of England had ruled that any one who had continued to reside in the United States after the peace of 1783 could not possess or transmit British citizenship, and consequently that no such person could inherit real estate in any part of the British Empire. The effect of this judgment upon Upper Canada was to disfranchise and denaturalize a large part of the population, and to render their titles to land invalid. The colonial secretary suggested that a bill should be passed by the parliament of Upper Canada restoring to these persons their civil and political rights. The bill originated in the Legislative Council, and when it came to the Assembly, the members of that body were

aghast when they found that it did not pretend to grant full naturalization. This was regarded by the Assembly, and by the great body of American immigrants into Canada, as an attempt on the part of the government to discriminate against them. So far as Maitland is concerned, it should be said that he merely followed the instructions of the Colonial Office. A battle royal over the question continued for several sessions, and in the end the members of the Assembly, after memorializing the home government, had their way. But the action of the provincial government was misconstrued throughout Upper Canada, andmany an American immigrant into the colony was driven into opposition by the agitation over the Naturalization Act. The presence of this element in the Reform party was afterwards partly responsible for the charges of republicanism and disloyalty so frequently levied against the Reformers by the Family Compact party.

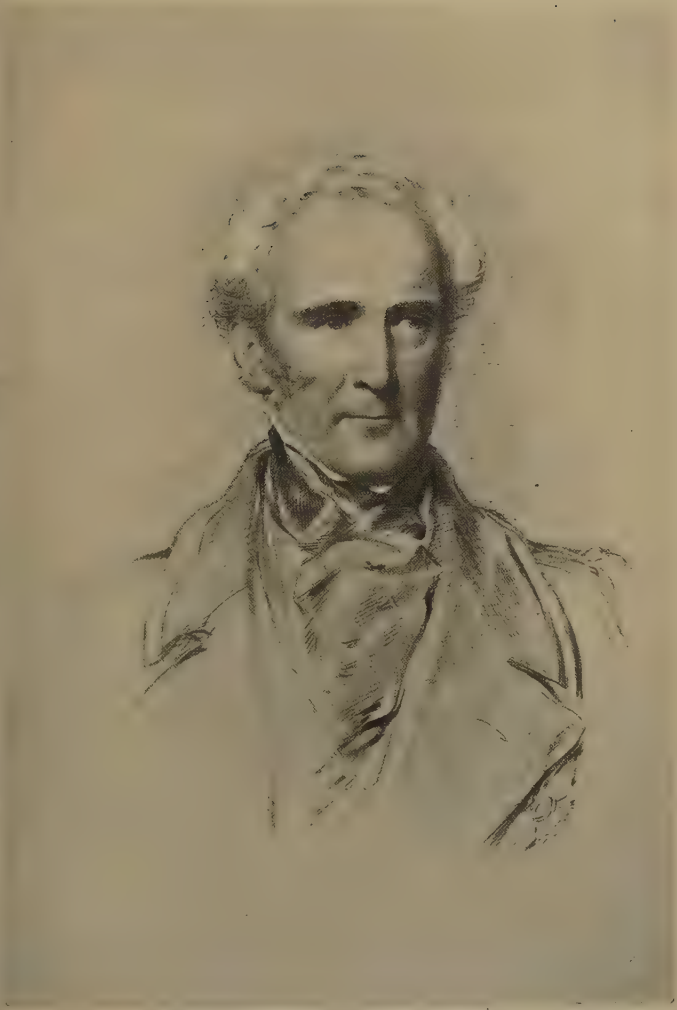
Sir Peregrine Maitland left Upper Canada in the beginning of November 1828. Before he went, however, the elections for a new Assembly were held. To Maitland the result of these elections must have been a disagreeable pill. The Reformers carried the country

by a substantial majority. In the county of York, William Lyon Mackenzie and Jesse Ketchum were returned; elsewhere such men were elected as Marshall Spring Bidwell, John Rolph, Peter Perry, and the elder Baldwin. The reasons for this result are obvious. The motives lying behind the destruction of Mackenzie's press had been misconstrued; the letter and 'ecclesiastical chart' of Archdeacon Strachan had aroused against the government the feeling of the Methodists; the Americans in the colony had been antagonized by what they regarded as an attempt to rob them of their civil and political rights; and many regarded the prosecutions for libel which had taken place through Sir Peregrine Maitland's régime as an attempt to stifle freedom of speech.

CHAPTER V

A REFORM ASSEMBLY

SIR PEREGRINE MAITLAND'S successor was Sir John Colborne. Colborne was a distinguished veteran of the Napoleonic wars who had been lieutenant-governor of Guernsey since 1825. He was at this time forty-two years of age. Though not a brilliant man, he possessed mature judgment and steady nerves, and as an administrator he stood head and shoulders above both his predecessor and his successor in office. He had no illusions about the leaders of the Family Compact. Of Archdeacon Strachan he wrote, a few months after his arrival in Canada: 'I cannot blind myself so far as not to be convinced that the political part he has taken in Upper Canada destroys his clerical influence, and injures to a very great degree the interests of the episcopal church, and, I am afraid, of religion also.' At first Colborne held himself distinctly aloof from Family Compact influences, and it was



SIR JOHN COLBORNE, LORD SEATON

From an engraving in the Dominion Archives

only when Reformers like Mackenzie became factious in their opposition to government that he was forced into the Family Compact camp. Colborne was not of a democratic turn of mind. But it is noteworthy that during his period of office there were no persecutions and prosecutions by government such as had taken place under Maitland. The expulsions of Mackenzie from the Assembly were the work of a Tory majority in the House itself, and there is no doubt that Colborne did not wholly approve of their course. His real interest in the welfare of the colony was shown by his founding of Upper Canada College and by his advocacy of good roads. 'In allowing your roads to remain in their present state,' he bluntly told the Assembly, 'the great stimulus to agricultural industry is lost.' Colborne's ideal was something very different from the *dolce far niente* policy of Maitland.

The Assembly, which had been elected in the summer of 1828, met on January 9, 1829. It was the tenth which had been elected since 1792, and the first in which the Reformers had secured a steady majority. The complexion of the House was immediately shown by the election of Marshall Spring Bidwell as speaker, and by the passing of an address to the lieu-

tenant-governor complaining of 'the injurious policy hitherto pursued by the provincial administration,' and regretting that he was surrounded by 'the same advisers as have so deeply wounded the feelings and injured the best interests of the country.' This address must have greatly embarrassed Colborne. He replied dryly that it was 'less difficult to discover the traces of political dissensions and local jealousies in this province than to efface them.' Early in the session, also, an address was presented by the Assembly asking for the remission of the sentence of Francis Collins. This request Colborne found himself unable to grant; but when the matter was referred to the Imperial authorities, Colborne's influence was thrown on the side of leniency, and Collins was released.

The relations between the House and the Family Compact soon became strained. When the case of Collins was being investigated, the judges who had tried him, Sherwood and Hagerman, were subpœnaed to attend as witnesses. They attended, but declined to answer the questions put to them. Shortly afterwards, Henry John Boulton, the solicitor-general, and Allan MacNab, then a struggling young barrister in Hamilton, were summoned

to attend before a committee. They both showed their ignorance of parliamentary law by following the example of Sherwood and Hagerman, and refusing to answer. The Assembly determined to assert its authority. MacNab, who had remained obdurate, was committed to jail for a breach of the privileges of the House; and Boulton, who, on finding that he could not count on the support of Colborne, had recanted, was admonished by the speaker. The short speech in which this admonition was administered is one of the classics of Canadian parliamentary speaking. Bidwell and Boulton were almost hereditary enemies. It had been a Boulton who had gone down to Massachusetts in 1821 to ferret out evidence against Barnabas Bidwell. But in the calm, lucid periods of the speech there was no trace of personal feeling.

Under the guidance of Mackenzie, who did not conduct himself with the usual caution and reserve of a new member, the House went on a still hunt for grievances. It instituted an inquiry, first of all, into the administration of the Post Office. At that time the Post Office was under Imperial control, and it was believed to be a source of considerable revenue to the government. Certainly, the rates of

postage were very high, and the service was inefficient. But that the Post Office was a mine of gold may well be doubted. An attack also was made by Mackenzie on the custom which had grown up whereby the officials of the Legislative Assembly were appointed by the executive government. Chief among these officials was the chaplain of the House. Hitherto the chaplain had always been a clergyman of the Church of England. Mackenzie did not hesitate to stir up religious discord by attacking this arrangement. He carried a resolution to the effect that the clergy and ministers of the town of York should be asked to officiate in turn; and he carried through the Assembly a bill repealing the clause in the statute determining the salary to be paid to the chaplain, a bill that would have become law had it not been thrown out by the Legislative Council. All these matters may have been fit and proper subjects for inquiry, but there is no doubt that Mackenzie occupied the time of the House over them to the exclusion of much more urgent and important matters, such as the establishment of schools and the building of good roads.

In the summer of 1829 John Beverley Robinson was raised to the bench as chief

justice of the province, and his place as member of the Assembly for the county of York was taken by Robert Baldwin. Baldwin was then a young man of only twenty-five years of age, but he had already given signs of great promise, and was in the confidence of Reformers like Bidwell and Rolph. In the Assembly, however, he preserved a studious silence—a fact which may serve to explain his defeat in the elections of 1830.

During the session of 1830 the Assembly once more addressed the lieutenant-governor, praying for the dismissal of his advisers, on the ground that they had lost the confidence of the country. The reply of the lieutenant-governor was almost a snub. 'Gentlemen of the House of Assembly,' he said, 'I return you my thanks for your address.' Thus rebuked, the Assembly applied itself to business, and passed some useful legislation. It settled finally the question of the losses sustained in the War of 1812; it made provision for the maintenance of roads; and it granted aid to the Welland Canal, which had been begun with very inadequate means during Sir Peregrine Maitland's régime. Mackenzie's *flair* for grievances found scope in an inquiry into the expenditure in connection with

the canal; the investigating committee, however, reported that they found very little to censure.

The tenth parliament of Upper Canada came abruptly to an end in the summer of 1830. On June 26 George IV was gathered to his fathers; and it was the rule in those days that with a new king there must also be a new parliament. The elections took place at the end of October. The outcome was a surprise to every one, but most of all to the Reformers. Both the Baldwins were defeated at the polls; Rolph failed of re-election; and only Bidwell, Perry, Mackenzie, and a few others were left of the Reform group that had dominated the previous House.

In attempting to explain this sudden right-about-face in public opinion, one is tempted to take refuge in Sir John Macdonald's proverb that elections are as uncertain as horse-races. It is possible that the change was due in part to the confidence which the country had begun to feel in the justice and integrity of Sir John Colborne. Perhaps the most important factor in it was the disappointment which many people undoubtedly felt in the behaviour of the Reform Assembly. Not enough useful legislation had been passed; as was indeed

natural. When the government party were able to control a majority in the Assembly, they were able to direct legislation; but when the majority in the Assembly were in opposition to the government, there was no leadership or direction, and the proceedings of the House became wild and aimless. There had been a great outcry over abuses, and many committees for inquiry had been appointed: but the mountain had brought forth a mouse. 'Although there may be some abuses which have crept in,' wrote John Ryerson, a member of a prominent Methodist family, 'yet I believe that we enjoy as many political and religious advantages as any people.'

As yet the Reformers had advanced no satisfactory constructive programme. Vague demands were heard for an Executive Council possessing the confidence of the people, but it was not until 1836, when Robert Baldwin addressed a communication on the subject to the colonial secretary, that a definite plan was formulated for the government of the colony by a cabinet of men sitting in the legislature and responsible to it.

CHAPTER VI

'ONE OF THE MEMBERS FOR THE COUNTY OF YORK'

THE House of Assembly which met in the beginning of 1831 was like nothing that had preceded it. It was not only Tory, it was more royalist than the king. Throughout its four years of existence the cool and courteous leadership of John Beverley Robinson, who had led the Tory phalanx in the House from 1821 to 1829, was sorely missed. His place was taken by the new attorney-general, Henry John Boulton, by the new solicitor-general, Christopher Alexander Hagerman, and by Allan MacNab. Boulton was a peculiar mixture of insolence and incompetence; Hagerman, though a brilliant speaker, was violent and extreme in his views; and MacNab belonged to that type of Toryism which places its main reliance in prejudice and stupidity. Under Robinson the Tories in the House had reflected in some measure the

views of the executive government; but not even Sir John Colborne himself could restrain the dancing dervishes who led the House of 1831-35.

The first important measure of the session was what Mackenzie and his friends called the 'Everlasting Salary Bill.' In 1830 there had come into power in Great Britain a Whig ministry—the ministry which two years later carried the first Reform Bill. One of the first actions of the Colonial Office under the new régime had been to abandon to the parliaments of Upper and Lower Canada the control of a considerable revenue which had hitherto been at the disposal of the Imperial government. At the same time, however, the colonial secretary had expressed the hope that a permanent civil list would be voted by the Canadian legislature, making provision for the payment of the salaries of the lieutenant-governor, the Executive Council, the judges, and the law-officers of the crown. Bills for this purpose were introduced in both the Upper and the Lower Canadian parliaments. In Lower Canada the bill was rejected by the French majority in the lower house. In Upper Canada the bill was passed, but it met with strong opposition from the Reformers,

who, ignorant of constitutional usage, wished to have the holders of office appointed during good behaviour—that is, while their conduct met with the approval of the House of Assembly. The concession made by the British government had placed in the hands of the Assembly the power of withholding by far the greater part of the supplies, and the Reformers might well have allowed the 'Everlasting Salary Bill' to pass unopposed. It was not advisable, for instance, that the pay of the judges should be made dependent on the caprice of a popular Assembly.

The truth is, that the small band of Reformers in the House interpreted the duties of an Opposition in a very literal sense. This was especially true of Mackenzie. Undismayed by the hostile majority against him, he continued his agitation just as in the previous session. He attacked the presence of Archdeacon Strachan and the Roman Catholic Bishop Macdonell on the Executive Council; he renewed his attack on the practice of having a Church of England clergyman as chaplain of the House; he moved for a committee to inquire into the constitution of the House, in view of the fact that so many members held office of profit under the crown. This last

measure was a move in the right direction; it was identical with that bill for the 'better security of the independence of parliament' which Burke had introduced into the Imperial parliament half a century before; but even in this case there was in Mackenzie's presentation of his argument much to offend the feelings of many of his fellow-members. Meanwhile Mackenzie was carrying on his paper, the *Colonial Advocate*. In its columns the abuse in which he indulged in the House was repeated week by week, generally with embellishments. From a prosecution for personal libel, however, he was protected by his seat in the House; and even if an action for libel had been entered against him, there was always the doubt whether a jury from the county of York could be persuaded to convict him.

Faced by this difficulty, the leaders of the House hit upon the idea of expelling Mackenzie from their midst. This was a course which, whatever may be thought of its wisdom, the House had a perfect right to adopt. Nor can it be said that, when Mackenzie was expelled, he deserved any sympathy; for he had vigorously defended the action of the Lower-Canadian Assembly in expelling

Robert Christie two years before. Indeed, if the expulsion of Robert Christie had not taken place in Lower Canada, it is possible the expulsion of Mackenzie might not have taken place in Upper Canada.

The grounds on which the first attempt to expel Mackenzie was made were, however, ridiculously inadequate. He was charged with breach of privilege in having published the journals of the House without the appendices. If the charge had been made in the eighteenth century, it might have been valid; but the principle contravened was one which had long since fallen into disuse. If Mackenzie was guilty, then every newspaper editor in the British Empire was guilty. When, therefore, Allan MacNab brought forward a motion to the effect that Mackenzie had been guilty of a breach of privilege, his motion was voted down. Having failed in this direction, the Tory extremists then had recourse to another expedient. They brought against Mackenzie a charge of libelling the Assembly. But before the matter came up, the House was prorogued, and proceedings were stayed.

The second session of the legislature began on November 17, 1831. On December 6 the attack on Mackenzie was renewed. In recent

numbers of the *Colonial Advocate* some editorials had appeared reflecting strongly upon the Assembly. It had been described as 'a sycophantic office for registering the decrees of as mean and mercenary an executive as ever was given as a punishment for the sins of any part of North America in the nineteenth century.' Such language would not to-day be regarded as unusual, but in 1831 there still existed men of the old school, who had not been reconciled by a lifetime of democratic politics to having their honour and integrity called in question. The House declared the editorials to be 'gross, scandalous, and malicious libels, intended and calculated to bring this House and the government of this Province into contempt.' Mackenzie defended himself with his usual vigour and resourcefulness, but his fate was foreordained, and on December 12 he was expelled from the House. The debate on his expulsion did not reach a high level. The attorney-general called Mackenzie a 'reptile,' and the solicitor-general described him as a 'spaniel dog.'

As might have been foreseen, the effect of this expulsion on Mackenzie's constituents was to raise him to the proportions of a hero. On the very day of the expulsion a deputation of

over nine hundred people waited on Sir John Colborne and asked him to dissolve the House. To this deputation Colborne replied with one of his laconic speeches: 'Gentlemen, I have received the petition of the inhabitants.'

The by-election took place on January 2. A Tory candidate had been nominated, but after the poll had been open an hour and a half he retired, having received only one vote as against one hundred and nineteen cast for Mackenzie. Mackenzie himself was escorted to the poll by a procession of forty sleighs, and afterwards he was presented by his constituents with a gold medal and chain, 'as a token of their approbation of his political career.' Small wonder if Mackenzie swelled with pride! Men with steadier heads than his have been carried away by popular applause no more vociferous than the cheers which rang that day about the polling-booth in the Red Lion Inn.

But the battle was not yet over: it was barely begun. When Mackenzie presented himself at the bar of the House to be sworn in, some of his opponents tried to keep him from taking his seat. The majority, however, saw clearly that expulsion from the House did not create disability; and Mackenzie was

admitted. He had hardly entered the House when a fresh accusation of libel was brought against him. On January 5 he had reiterated in his paper the charges of 'sycophancy' against the members of the House which had brought about his previous expulsion. The article in question was voted to be a 'false, scandalous, malicious libel' (as a matter of fact, it hardly exceeded the bounds of legitimate discussion), and Mackenzie was not only expelled from the House, but was declared incapable of holding a seat in that parliament. This action of the House was not only foolish, it was illegal; for it created a disability unknown to the law.

When the second by-election took place in the county of York, on January 30, 1832, the House had already risen. Three candidates presented themselves: a straight Tory candidate, who retired with twenty-three votes after one day's polling; a moderate Reformer, who came forward on the ground that Mackenzie was ineligible to sit in the House; and Mackenzie himself. Mackenzie was elected by 628 votes against 96 cast for his chief opponent.

Despairing of justice at the hands of the Assembly or of the lieutenant-governor,

Mackenzie now turned his eyes towards England. During the remainder of the winter he busied himself in holding indignation meetings throughout the country and obtaining signatures to petitions which he intended presenting to the king and to parliament in England. The Tories organized rival meetings and signed counter-petitions; and some rioting was the result. At Hamilton, on March 19, Mackenzie was the victim of a brutal attack by some of Allan MacNab's satellites; and the only one of his assailants who was brought to trial escaped with a fine of $100. A few days later an attack was made on the office of the *Colonial Advocate* in York, and some windows were broken. Feeling began to run so high that Mackenzie deemed it prudent to retire to the country for a few weeks; and on May 1 he set sail for London.

It was his intention to return to Canada in time for the opening of the legislature in the autumn, but he remained in England for a year and a half. On the whole, his visit to England was crowned with success. Through the offices of Joseph Hume, one of the Radicals in the House of Commons, he obtained a number of audiences with Lord Goderich, the colonial secretary. At Lord Goderich's re-

quest he presented a long written memoir with regard to the state of Upper Canada and the grievances of which he complained. This memoir was not one of Mackenzie's greatest achievements; it was a document in which innuendo, sarcasm, and invective took the place of argument. But it showed Lord Goderich that there was 'something rotten in the state of Denmark'; and it inspired the famous dispatch of November 8, 1832, which caused such a flutter of the dove-cotes in Upper Canada.

The third session of the legislature of Upper Canada began on October 31, 1832. Though Mackenzie was not present, the question of his election immediately came up. On the advice of the law-officers of the crown, Boulton and Hagerman, who declared that the House had the right of determining the eligibility of members, it was resolved that Mackenzie, having been twice expelled, had no right to sit in the House and vote. This outrageous doctrine was carried by a majority of fifteen to eight, and a new writ was ordered. Such was the indignation of Mackenzie's constituents at this proceeding that no Tory candidate ventured to present himself to the electors, and on November 26, 1832,

Mackenzie, though absent from the country, was returned by acclamation. This was his fourth election to the eleventh parliament of Upper Canada.

It was during this session that Sir John Colborne received Lord Goderich's dispatch of November 8, 1832, to which reference has already been made. Goderich had prepared this dispatch with great care, and had striven to hold the balance even. Certainly, he had not spared Mackenzie. He wrote to Colborne instructing him to publish the dispatch, evidently in the hope of creating a moderate party which should keep in check the extremists. At first Colborne hesitated about publishing the dispatch before the legislature had risen; but, in the end, he decided to take prompt action, and to communicate the document to the two Houses. The result was a tempest in the parliament buildings. Instead of making the best of the dispatch, and pointing out how severely it condemned Mackenzie, the Tories flew into a rage because the secretary of state had even dared to give audience to Mackenzie. Lord Goderich, said Boulton, might have found something better to do than to answer Mackenzie's 'rigmarole trash'; and Hagerman declared that Goderich had

stultified himself by noticing statements made by a libeller who had been several times expelled from the House of Assembly. Then they proceeded to reinforce their remarks by moving the fourth expulsion of Mackenzie from the House, although he had committed no new offence, and it was clear that both Sir John Colborne and Lord Goderich disapproved of their course of action.

Nemesis was swift and sure. The mails had barely time to cross and recross the Atlantic when word reached Sir John Colborne that Boulton and Hagerman had been dismissed from the attorney-generalship and the solicitor-generalship, on the ground that they had taken a part, as members of the Assembly, directly opposed to the avowed policy of Her Majesty's government. While this dispatch was on the way to Upper Canada, Hagerman was on the way to England. When he reached London, and heard of his dismissal, he promptly applied to Lord Stanley, who had just succeeded Lord Goderich in the Colonial Office, and so plausibly did he defend himself that Lord Stanley reinstated him. Boulton, on receiving news of his dismissal, followed Hagerman to England. But on his arrival he found that the attorney-generalship had

already been offered to an English barrister, Robert Sympson Jameson. Boulton made abject apologies, and was consequently appointed chief justice of Newfoundland. In 1833, therefore, he disappeared for a time from Canadian history. When he reappeared, after having been removed from office in Newfoundland in 1838, it was—*mirabile dictu!*—as an exponent of responsible government.

Mackenzie returned to Canada in the summer of 1833, well pleased, on the whole, with the result of his trip. He had roused the Colonial Office, and he had helped to bring about the dismissal of the two officials who had opposed him most bitterly. When the House of Assembly met on November 19 he once more attempted to take his seat. He had been declared ineligible to sit; but, owing to the prorogation of the previous session, no new writ had been issued. This defect was now remedied, however: Mackenzie was refused permission to take his seat, and a new election—the fifth during this parliament—was ordered in the county of York.

The Assembly might as well have saved itself the trouble of ordering the new election, for on December 16, 1833, Mackenzie was once more returned by acclamation. Then fol-

lowed scenes which might well have had a place on the boards of a burlesque theatre. When Mackenzie went to the House to take his seat, he was accompanied by a motley throng of his constituents. They filled the galleries and crowded about the bar of the House, and their behaviour was such that the speaker ordered the galleries to be cleared. When the sergeant-at-arms ordered Mackenzie, who was among the rest, to depart, Mackenzie replied that he had a right to be there, as he was waiting to be sworn in. The sergeant-at-arms seized him by the collar, and was dragging him to the door when he was intercepted by a brawny Highlander. At that moment the doors were burst open by the crowd, and for a few moments there was a general struggle between the members and the intruders. When order was restored, the sergeant-at-arms informed the speaker that Mackenzie claimed permission to remain in order to take the oath. The speaker, however, refused to allow Mackenzie to take the oath, and Mackenzie was obliged to withdraw.

On the following day the House declared Mackenzie guilty of yet another libel. This libel, it should be added, was of a date two

years previous. But it was deemed by the House sufficient ground for a fifth expulsion. Meanwhile Mackenzie was writing to Colborne complaining that he had been refused permission to take the oath. Colborne advised him to apply to the clerk of the Executive Council, who had been instructed by Colborne himself to administer the oath. But when Mackenzie found himself expelled again from the House, he did not at first think it worth while to take the oath. Nearly two months elapsed before, on the advice of his friends, he decided to renew the attempt to take his seat. On February 10, 1834, having taken the oath before the clerk of the Executive Council, Mackenzie walked into the House and sat down. The sergeant-at-arms immediately approached him and asked him to withdraw. Mackenzie produced the attested copy of the oath he had taken, and refused to withdraw. Three times an attempt was made to remove him by force; finally the sergeant-at-arms arrested him. A six hours' debate then followed, in which the extreme Tory members used language in no way complimentary to Colborne for his action in affording Mackenzie facilities in taking the oath. The result of the debate was that Mackenzie was ad-

monished by the speaker and discharged from custody; but he was not permitted to take his seat in the House. Nor, in truth, did he again attempt to do so. The eleventh parliament of Upper Canada had already nearly run its allotted span of life; and it doubtless seemed, even to a man of Mackenzie's tenacity of temperament, hardly worth while to fight for a seat in an Assembly which was on the verge of dissolution.

By 1834 Mackenzie had become a popular hero. Even among those who did not approve of his political course, sympathy for him and indignation at his persecution outweighed other considerations. Hardly had parliament been dissolved when a signal honour was conferred upon him by his fellow-citizens. On March 6, 1834, the town of York was incorporated as the city of Toronto, and Mackenzie was elected its first mayor. His year of office illustrated well his capacities and his defects. A system of municipal government had to be organized *ab initio*, and here his executive ability stood him in good stead. That knowledge of finance which he had often shown in the House appeared in the establishment of a new method of taxation; his progressive spirit found vent in the introduction

of wooden footways; and when the cholera swept the city, his energy did much to alleviate the distress. But, at the same time, his period of office revealed that fatal want of judgment which cursed his political career. He had been only a few weeks in office when he perpetrated one of the most extraordinary mistakes of his life in publishing what has come to be known as the 'baneful domination' letter of Joseph Hume. This was a letter which Hume, the Radical politician who had espoused Mackenzie's cause in England, sent to him, prophesying that a crisis was fast approaching in the affairs of Canada which would 'terminate in independence and freedom from the baneful domination of the mother country.' For Mackenzie to publish this letter, with apparent approval, was almost to admit the charges of disloyalty and separatism which the Tories had been hurling against him. An attempt was made by the Reformers to put another construction on the letter than that which the text seemed to warrant, but there is no doubt that the effect of the letter was to injure Mackenzie greatly in the minds of many moderate and loyal people. Another unwise action was his placing of a drunken prostitute in the public

stocks, largely on account of her abuse of himself—the last instance of the use of the stocks in British North America. And all this time the *Colonial Advocate* was pursuing the abusive tenor of its way. Small wonder that John Ryerson, voicing the views of many others, should have exclaimed: 'We should fare sumptuously, should we not, with W. L. Mackenzie, of Toronto, and Radcliffe, of Cobourg [editor of the Cobourg *Reformer*], for our rulers!'

There is good reason for believing that, had it not been for Mackenzie's indiscretions, the Reformers would have carried nearly every riding in the elections which took place in October 1834. As it was, they obtained a majority in the new House. The county of York sent up a solid phalanx of four Reformers, headed by Mackenzie. Toronto elected a moderate Reformer. Bidwell and Perry were returned for Lennox and Addington. Dr Duncombe, destined to be the leader of the *émeute* in the west, was elected for Oxford; and Samuel Lount, of unhappy memory, carried one of the seats in Simcoe. On the other hand, there were lacking in the new House some familiar faces. The Baldwins and Rolph, together with Jesse

Ketchum, who had been Mackenzie's fellow-member in the county of York, all refused to stand; owing, without doubt, to a lack of sympathy with Mackenzie's methods and ideals, and an unwillingness to fight shoulder to shoulder beside him.

CHAPTER VII

THE SEVENTH REPORT

THE new House assembled on January 15, 1835. The Reformers immediately showed their strength by electing Marshall Spring Bidwell to the speakership. The action was unfortunate, for it removed from the fighting ranks of the Reformers in the House their sanest and ablest leader.

Within ten days of the beginning of the session Mackenzie moved for a select committee to inquire into grievances. Mackenzie himself was appointed chairman of the committee, and the members were all his own immediate followers. The report of the committee, which is known as *The Seventh Report on Grievances*, may therefore be taken as embodying the views of that branch of the Reform party which in the autumn of 1837 broke out in rebellion.

The report itself occupied forty-eight quarto pages in the reprint ordered by the House, and

with the numerous appendices made up a bulky volume. It was written in a very moderate style; and, although it was intensely partisan, and although many essential facts were suppressed, it yet established beyond the shadow of a doubt the existence of real grievances. The first object of attack was the extent of the patronage enjoyed by the executive government. The committee even expressed the opinion that this patronage was so extensive that it would be useless for the Assembly to attempt to follow Lord Stanley's advice about withholding supplies—an opinion not borne out by subsequent events. In attacking the amount of the salaries and pensions paid by the government there can be no doubt that the committee made a mistake. A few men like Archdeacon Strachan had done very well out of the public exchequer; but, on the whole, the scale of salaries was low. Nor can one admire the committee for grudging the money spent on Upper Canada College. As to the granting of moneys, without vote of the legislature, to the Church of England, the Presbyterian churches, the Methodist churches (except the Primitive Methodist), and to the Roman Catholic Church, it can only be said that the committee was right in opposing on

principle such an expenditure; but it should have been recognized that the grants had been made with the best objects in view, and that nothing but practical good had resulted. The fact cannot be stated too often or too emphatically that, whatever irregularities may have existed during the Family Compact régime in the administration of the public funds, there were no scandals comparable with those which have disgraced the era of responsible government.

The committee expressed the opinion that the extent and abuse of the patronage of the crown were 'the chief sources of colonial discontent'; but they made out a better case in connection with the purely constitutional grievances which they urged. There was real force in their complaint that 'little respect is paid, even in subordinate matters, to the wishes of the House of Assembly.' That this state of affairs may have been due in some measure to the factious behaviour of the Assembly itself does not seem to have occurred to the committee; still, it cannot be denied that the Legislative Council had been very free in throwing out measures sent up by the Assembly, and that both Maitland and Colborne, in their horror of democratic prin-

ciples, had not always given the representations of the Assembly the attention they deserved. But when the committee began to suggest remedies for this state of affairs, they came to grief. Their chief remedy was the application of the elective principle to the second chamber, or Legislative Council. The Legislative Council was undoubtedly a stumbling-block. Sir John Colborne, when he had come to the country in 1829, had reported that the executive government possessed far too much influence in the upper chamber, and had recommended an increase in the number of its members. The increase had been made, but the influence of the executive had not been removed. To make the Council elective, however, would have been to fly to the other extreme; and, in the light of subsequent experience, it would not have been a satisfactory solution. The elective principle was applied to the upper chamber of the legislature of United Canada in 1854, and was not found to work well.

The committee had something to say also about the introduction of 'a responsible government.' But their remarks in this connection were of a rather hazy character. The essential feature of the system of responsible

government which we now enjoy is that the executive should sit in the legislature and render there daily an account of their actions; but all that the committee advocated was a vague 'responsibility to public opinion' on the part of the Executive Council. As to how that responsibility was to be made effective they had no practical suggestions to make. They did indeed observe that a certain class of persons examined by them had desired 'a responsible Ministry, some heads of departments well paid, to direct the government, to prepare bills and most of the business of the session, and to hold office or lose it according as they may happen to be in the minority or majority in the House of Assembly'; but they did not pronounce in favour of this idea, and apparently did not think it feasible in Canada without some modifications.[1]

Over two thousand copies of the report on grievances were printed. The first copy struck off was sent to the colonial secretary, and one was sent to each member of the Imperial parliament. The report produced an impression in England, and Lord Glenelg, who was then at the Colonial Office, saw that it would be necessary to introduce some

[1] See *Seventh Report on Grievances*, p. xxx.

changes in the government of the colony. Many of the recommendations of the report it was impossible for the British government to accept, but some modifications of the old system seemed feasible. A change of governor, therefore, was in order. Sir John Colborne had been compelled to administer the affairs of Upper Canada under several colonial secretaries, a fact which must have entailed no small amount of embarrassment; and it was obviously unfair to ask him to embark on a new line of policy. He was, therefore, relieved of his duties; and Sir Francis Bond Head, an English baronet of some distinction as an author and traveller, was appointed in his stead. Sir Francis Bond Head was sworn in at York on January 25, 1836; and the next day Sir John Colborne, amid evidence of the deepest regret at his departure and of esteem for his character, left the province, to take over the command of His Majesty's forces in British North America.

Before he did so, however, he took an action which has been much criticized by later writers. This was the endowment of forty-four rectories 'according to the establishment of the Church of England' out of the clergy reserves, or lands set aside for the state endowment of

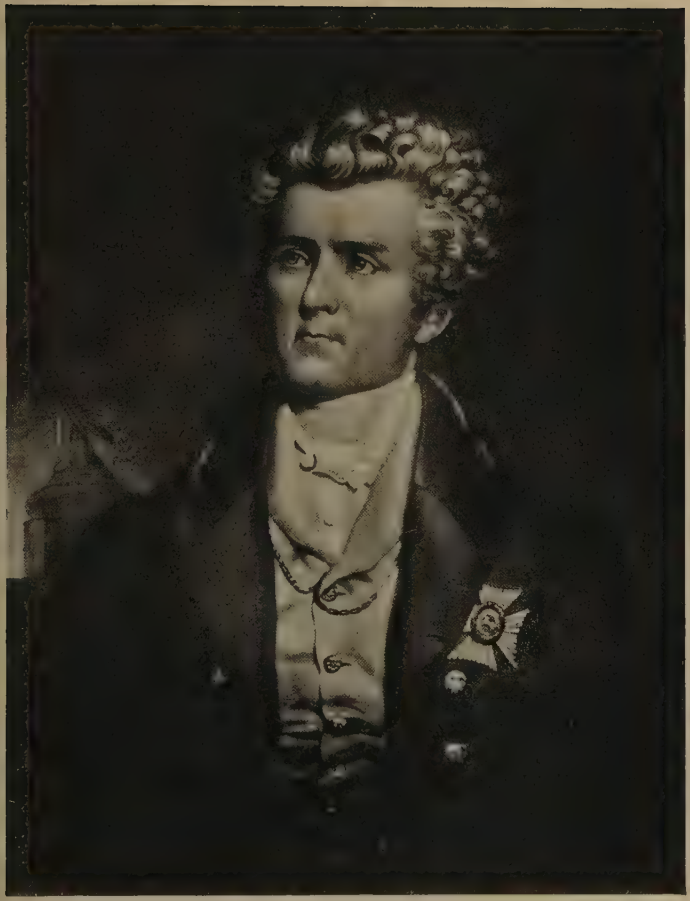
religion. The clergy reserves question was a very thorny subject in 1836. The right of the Church of Scotland to share in the endowment had been admitted, and the Methodists were now pressing their claim. It was unfortunate that action should have been taken just when feeling was running so high on the subject. It is difficult to blame Colborne, for his action was in complete accord with the law and with instructions from the Colonial Office. But the idea of religious equality had made such strides in Upper Canada that any special treatment of the Church of England, which, it must be remembered, was the church of nearly all the members of the Family Compact, was sure, whether legal or illegal, to arouse indignation. This endowment of the rectories was one of the chief grievances of the rebels of 1837.

CHAPTER VIII

THE 'TRIED REFORMER'

THERE is a story, which may or may not be apocryphal, that the appointment of Sir Francis Bond Head as lieutenant-governor of Upper Canada was an error. It is said that after the appointment had been offered in vain to several persons, who had all declined it on account of the insufficiency of the emoluments attached to it, some one suggested that it should be offered to ' young Head.' The man meant was Sir Edmund Head, afterwards the successor of Lord Elgin as governor-general of Canada, then a young man of thirty years of age. The colonial secretary, Lord Glenelg, understood, however, that Sir Francis Bond Head, the cousin of Sir Edmund, was meant; and he therefore promptly offered him the position.

One would willingly believe that the story was true, for a man less fitted for the duties of a representative of the crown in any of the colonies could hardly have been sent out.



SIR FRANCIS BOND HEAD

From an engraving in the Château de Ramezay

Certainly, Head himself was greatly surprised when he was roused from bed at his Kentish home by the king's messenger conveying the offer of the colonial secretary. He had had no experience of civil government save as a poor law commissioner, and he had taken so little interest in politics that he had never voted in his life. At first he declined the appointment; but when the Colonial Office pressed him to accept, he gave way, on the understanding that he should be given a baronetcy.

When the appointment was gazetted, Joseph Hume wrote out to Mackenzie congratulating the province on its good fortune, and describing Sir Francis Bond Head as one whose 'conduct and principles have been much approved of.' On his arrival in Upper Canada, therefore, Head was given a very warm reception by the Reformers. It was commonly supposed that a new era had begun. As Head rode through the streets of Toronto he found himself placarded on the walls as '*Sir Francis Head, a Tried Reformer.*' At this description he was naturally much surprised.

On his arrival in Upper Canada, Head's mind was probably a *tabula rasa* so far as

the affairs of Upper Canada were concerned. He told the legislature when he went down to address them that he had 'nothing either to promise or profess.' But he acquired with astonishing rapidity a violent dislike for the Reformers. This dislike seems to have been aroused, in the first instance, by interviews which he had with Bidwell and Mackenzie, for both of whom he conceived an aversion. He has left of Mackenzie an extraordinary picture: 'Afraid to look me in the face, he sat, with his feet not reaching the ground, and with his countenance averted from me, at an angle of about seventy degrees; while, with the eccentricity, the volubility, and indeed the appearance of a madman, the tiny creature raved about grievances here and grievances there, which the Committee, he said, had not ventured to enumerate.' Within a week of his arrival Head had learned to talk glibly, in those amazing dispatches which he sent back to England, of 'the republican party,' and of their desire 'to possess themselves of the government of this province for the sake of lucre and emolument.'

He had come out to Upper Canada, however, to inaugurate a new régime, and some measure of conciliation was necessary. The

measure which he adopted was the drafting of new blood into the Executive Council. The moment was opportune, as the Council had been reduced to three members — Peter Robinson, George H. Markland, and Joseph Wells. The first person to whom Head applied was Robert Baldwin, whom all parties agreed in recommending. Baldwin refused at first to accept office unless the old members of the Council were all dismissed; but finding Head adamant on this point, he agreed to accept office if Rolph and Bidwell were named with him. To Bidwell, Head objected strongly. Finally, it was agreed that the new members should be Robert Baldwin, John Rolph, and John Henry Dunn, an Englishman of high character and ability who had hitherto held himself aloof from provincial politics.

The new appointments were very popular; for it was believed, not only by the public, but by Robert Baldwin himself, that they heralded a real constitutional change. It soon became clear, however, that no such change was imminent. The new members found that they were not consulted upon matters of any moment. Their duties were only ministerial. Appointments were made to

office without their knowledge or consent, and the lieutenant-governor's assent was withheld from a bill without the reference of the bill to the Council at all. On March 4, only two weeks after the new members had taken the oath, the whole Council, old members and new, addressed a protest to the lieutenant-governor. Head replied on March 10: he laid down the principle that he alone was responsible to the Colonial Office for his acts, and was bound to consult his Council only when he felt need of their advice. The ability with which the reply was drawn up gave rise to the suspicion that it had been prepared by the chief justice, John Beverley Robinson, and many thought that Sir Francis, like his two predecessors, had fallen under the sway of that brilliant and powerful mind. In any case, the reply was unsatisfactory to the Council; and on March 12 the members, old and new, resigned in a body.

Sir Francis lost no time in getting together a new Council. Within a day or so he had induced four men to accept office—John Elmsley, William Allan, Augustus Baldwin, and Robert Baldwin Sullivan. This Council was quite an achievement, as the last two members were relatives of Robert Baldwin

himself. But not even this stroke of political dexterity saved Sir Francis from condemnation. The resignation of the old Council caused great excitement in the Assembly. On March 14 a resolution was carried, by a vote of 53 to 2, asserting the principle of 'a responsible Executive Council to advise the Lieutenant-Governor on the Affairs of the Province.' Ten days later an address was carried, by a vote of 32 to 19, declaring an entire want of confidence on the part of the Assembly in the new Council.

One of Sir Francis Head's chief characteristics was a complete absence of fear. Where even a strong man like Sir John Colborne had trod delicately, he stepped gaily and recklessly ahead. In his reply to the address of the Assembly he did not recede one inch from the position which he had taken up. Nor can it be said that his position was weak. Few people nowadays recognize what powerful logic lay behind the arguments of the opponents of the principle of executive responsibility in the colonies before 1837. The lieutenant-governor was responsible to the Colonial Office; if he were to accept implicitly the advice of an Executive Council responsible to the legislature, he would be accepting a dual responsi-

bility which would place him permanently on the horns of a dilemma. The solution of this difficulty has been attained in our own day only through the virtual abdication by the Colonial Office of its authority, and before 1849 the Colonial Office declined to take this step. But Sir Francis was a man who would lay himself open to attack even when in the right. When an address complaining of his actions was presented to him from a meeting held in the City Hall of Toronto, he received it surrounded by the officers of the garrison, and announced that since it came from 'the industrial classes,' he would express himself in 'plainer and homelier language.' He levelled against his opponents indiscriminately charges of republicanism and disloyalty; and he even conjured up the bogey of a foreign invasion of Canada, supported by the Reformers, an idea which can only be described as the hallucination of a disordered imagination. 'In the name of every regiment of militia in Upper Canada,' he exclaimed hysterically, 'I publicly promulgate, *Let them come, if they dare!*'

The Assembly, on the other hand, did not conduct itself with fitting moderation and restraint. It accused Sir Francis, on very slender grounds, of 'misrepresentation and

deviations from candour and truth'; and it actually went the length of stopping supplies. This is a step which should be the last resort of a representative Assembly. On this occasion it cannot be said that what had happened was a justification for so extreme a course.

On April 20, 1836, Sir Francis Head came down and prorogued the House, with a speech which occupied an hour in delivery and was very argumentative in tone. A month later he dissolved the House, although it had run barely half of its natural life, and writs were issued for a new election, to take place in June.

The elections of 1836 were fought with a bitterness unusual even in those days. Sir Francis Head threw himself into the contest as if he were a candidate for popular election. His way of stating the issue was thus: 'Are you for me, or for the House of Assembly?' He strove in every way to create the impression that the designs of the Reformers were disloyal and traitorous, and that the connection of Canada with the mother country was at stake; although he admitted that 'the Republicans in Canada generally mask their designs by professions of attachment to the mother country.' The cry of disloyalty was

taken up by the Tories, in whose hands it was so familiar a weapon; and there was re-established in Toronto the British Constitutional Society, which had been formed for the purpose of preserving the Imperial tie during the War of 1812-14. On the other hand, the Reformers were not idle. They organized an association named the Constitutional Reform Society, of which Dr Baldwin was president, and Francis (afterwards Sir Francis) Hincks was secretary. The platform of this association was, first, an elective Legislative Council; second, an Executive Council responsible to public opinion; third, the surrender of the whole provincial revenue into the hands of the legislature; and, fourth, the non-interference of the British government in the internal affairs of the colony.

Each party was confident of victory. The Reformers felt that, since they had carried the country in 1834, there was no reason why they should not do so in 1836. Sir Francis and his friends, on the other hand, thought that they discerned signs of a reaction in the country, and loudly professed their faith in the attachment of Canadians to the British crown. The result was probably a surprise even to Sir Francis. Not only were the

Reformers defeated in the elections, but they were almost driven from the House. Perry and Bidwell were both defeated in the constituency which they had so long represented; Mackenzie failed of election in the county of York; Lount was defeated in Simcoe; and Rolph alone of the leaders of the Reform party was returned. In the previous Assembly the Reformers had been in a majority of about eleven; in the new Assembly they were in a minority of at least twenty-five.

So extraordinary a result deserves an explanation. The causes of the turn-over appear, in the main, to have been two. In the first place, the lieutenant-governor undoubtedly succeeded in frightening many people into the belief that the Reformers were actuated by disloyal motives If the king's representative, they argued, undertook to make such charges, there was surely some truth in them. In the second place, the Methodist vote was cast almost wholly for the Tory candidates. This was due mainly to the influence of the Rev. Egerton Ryerson. Ryerson, who had founded the *Christian Guardian* in 1829, had at first espoused the cause of the Reformers; but he had had a violent falling out with Mackenzie, and had

gravitated toward the Tory side. In the early summer of 1836 he had published a number of letters in *The Times*, the first of which reached Upper Canada just before the election, and produced a powerful impression; and an attack by him on Peter Perry, published as an election fly-sheet under the title *Peter Perry Picked to Pieces*, was undoubtedly a factor in the result in Lennox and Addington. The behaviour of Sir Francis Bond Head during the election was highly improper. He was undoubtedly guilty of intimidating voters. He appointed returning-officers who were notoriously partisan. And he sent down government agents to some of the polling-booths, armed with patents for land, some of which seem to have been conferred upon persons who had no title to them. But questionable as his behaviour was, it cannot be said to have been in this respect a material factor in the result.

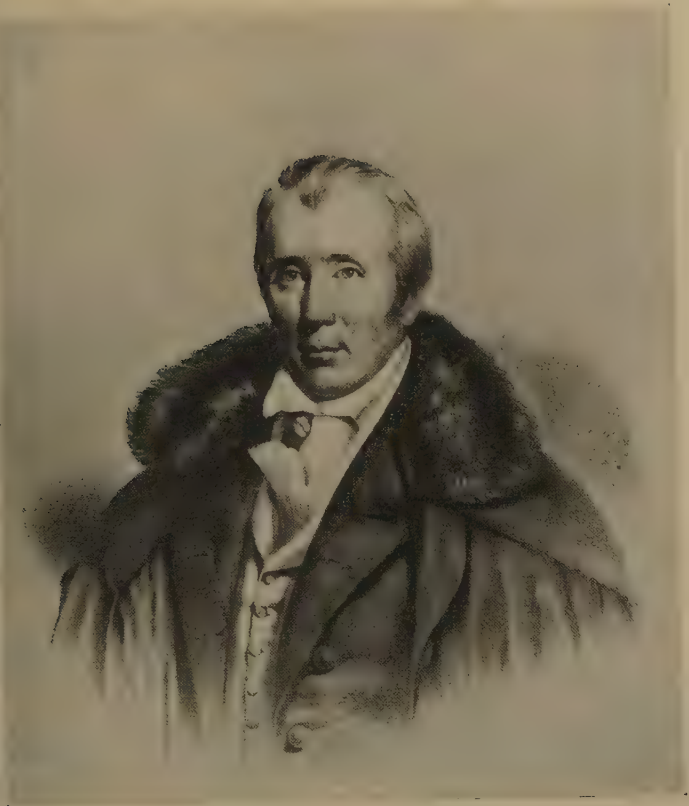
His success at the polls seems to have turned Sir Francis's head. He wrote to the colonial secretary announcing that he had 'saved the Canadas,' and that he had been 'engaged single-handed in one of the severest moral contests on record in the Colonial Office.' Glenelg, for his part, conveyed to him the king's approbation of his 'foresight, energy,

and moral courage'; but at the same time he warned him that 'His Majesty's Government look to no transient results or temporary triumphs.'

In the latter part of the summer of 1836 Sir Francis made a tour of the province, as a result of which he announced that 'upon the loyalty of the people of Upper Canada his Majesty's Government may now build as upon a rock.' In the autumn, on November 8, he called together the new House. As was always the case when the Assembly was in harmony with the executive government, the session proved to be a very businesslike one. The House voted the supplies which had been held up; it attempted to deal with the question of the clergy reserves; and it made appropriations amounting to $4,000,000 (a vast sum for Upper Canada in those days) for new surveys, for the building of roads, harbours, and lighthouses, for the improvement of the Trent and Grand rivers, and for the completion of the Welland Canal. The trouble, indeed, with this Tory parliament was that it was too progressive, and it saddled Upper Canada with a burden of public debt which the colony could not well carry. The House rose on March 4, 1837. An extraordinary session

was held from June 19 to July 11, in order to take measures to meet the financial and commercial crisis arising from the collapse of credit in the United States; but this meeting of the House had no political significance.

On several occasions Sir Francis Head had tentatively offered his resignation to the colonial secretary. He had openly dissented in his dispatches from the policy of the royal commissioners in Lower Canada; he had complained that his services were not appreciated; and he had openly rebelled against the instructions issued to the lieutenant-governor of New Brunswick, a copy of which had been sent him for his information as to the policy of the home government. His ultimate removal, however, was due to other circumstances. After the elections of 1836 he had dismissed from official positions three men, Dr W. W. Baldwin, George Ridout, and James E. Small, on the ground that they were members of the Constitutional Reform Society, which had issued a statement reflecting upon himself. Ridout had appealed to the Colonial Office, and had established the fact that he was not a member of the society in question. The colonial secretary, therefore, instructed Head to restore Ridout to his official position.



WILLIAM WARREN BALDWIN

From the John Ross Robertson Collection, Toronto Public Library

About the same time there occurred some vacancies on the bench in Upper Canada. In filling these vacancies Head passed over Marshall Spring Bidwell, although Bidwell's claims to a judgeship seem to have been urged by the Colonial Office, and although Head himself admitted that Bidwell's legal acquirements were superior to at least one of those who had been appointed. Head's reluctance to appoint Bidwell was due to personal antagonism; but the reason he adduced was that 'the welfare and the honour of the province depended on his Majesty never appointing a disloyal man.' Glenelg wrote in reply that no attempt had been made to prove disloyalty against Bidwell, and requested Head to appoint him to the next vacancy. On September 10, 1837, Head wrote a long dispatch, stating, with his usual self-assertion, that he declined to appoint Bidwell to the bench, or to restore Ridout to his position, and that he felt it his duty to tender his resignation. On November 24 Glenelg replied that the ministry had advised that the resignation be accepted.

But before this dispatch reached Toronto armed rebellion had broken out in Upper Canada.

CHAPTER IX

'REBEL BLOOD'

THE elections of 1836 had left Mackenzie a changed man. Hitherto he had shown in his character a strong undercurrent of geniality; but after his defeat he became soured, sullen, and excitable. He had severed his connection with the *Colonial Advocate* some time before the elections; but now he re-entered the field of journalism by founding a new paper, the *Constitution*. The first number of this paper was published on July 4, 1836, the sixtieth anniversary of the American Declaration of Independence; and its columns betrayed a bitter revolutionary spirit which had been absent from the *Colonial Advocate*. In the *Advocate* Mackenzie had exclaimed that disloyalty could never enter his breast; in the *Constitution* he boasted of his 'rebel blood,' and cried, 'I am proud of my descent from a rebel race.' He gave the government many opportunities to prosecute him; but he was

now regarded as a discredited man, and the government affected to treat him with contempt.

Early in the session of 1836-37 Mackenzie petitioned against the election of his opponent in the second riding of York, on the ground of corrupt practices; but owing to a technicality his petition was thrown out. The proceeding was one which it is difficult to defend, and there is no doubt that it greatly increased Mackenzie's bitterness. As yet, however, it seems that no idea of armed resistance to authority had entered Mackenzie's head; for in March 1837 he went to New York and made extensive purchases in connection with his book business.

In the spring of 1837 one thing happened after another to exasperate the Reformers, and to make them take refuge in counsels of despair. In Upper Canada the Tories failed to carry out their pre-election pledges to the Methodists with regard to the settlement of the clergy reserves question. In England the colonial secretary refused audience to both Robert Baldwin and Dr Charles Duncombe, who had gone over to lay the case of the Reformers before the British government. And in March 1837 the British House of

Commons adopted Lord John Russell's resolutions authorizing the seizure of the funds in the hands of the receiver-general of Lower Canada, in consequence of the refusal of the Assembly of Lower Canada to vote supplies. It was on this occasion that William Ewart Gladstone, then a brilliant young Tory of twenty-seven years of age, stood up in the House and championed the cause of the Family Compact in Upper Canada and the Château clique in Lower Canada. 'Was there not in Canada,' he asked, 'personal security, security for property, religion unfettered, and light taxation?'

When word of these events reached Upper Canada, the faces of many old Reformers no doubt set more firmly; and there was a noticeable revival of Reform agitation. Mackenzie, as usual, was in the thick of it. Together with Samuel Lount, of Holland Landing, who had also been defeated in the elections of 1836, and who attributed his defeat to fraud and corruption, he organized a series of what were called 'Union meetings' in the country north and north-west of Toronto. At first the speakers at these meetings showed a good deal of caution, but as time went on they became more reckless.

On June 30, at a secret meeting held at Lloydtown, a resolution was passed to the effect that, constitutional resistance having failed, every Reformer should arm in defence of his rights. Within a fortnight similar resolutions had been passed by meetings all over the Home district. These resolutions did not mean that the idea of actual rebellion had yet taken shape; they meant merely that recourse to arms was justifiable, and might become necessary.

Meanwhile the Reformers in Toronto were beginning to bestir themselves. Great sympathy was expressed among the Reformers in Toronto with the French Canadians, who had openly announced their intention of rebelling against Lord John Russell's resolutions. On July 5 Mackenzie boldly reviewed in the *Constitution* the situation in the lower province, and predicted a successful French-Canadian revolt. During the summer a number of meetings were held by the leading Reformers, at which an exchange of views was made. The usual place of meeting was Elliott's tavern, on the north-west corner of Yonge Street and Queen Street; but the more secret conferences took place in the brewery of John Doel, which was situated behind his house on

the north-west corner of Adelaide Street and Bay Street. Toward the end of July some meetings were held for the discussion of a written Declaration which should embody the platform of the local members of the Radical party. The Declaration was evidently modelled upon the Declaration of Independence of 1776. It set forth the grievances of which the Reformers complained; declared that the time had come for the assertion of rights and the redress of wrongs; and proclaimed the duty of every Upper-Canadian Reformer to co-operate heartily with Papineau and his French-Canadian *patriotes*. Finally, it recommended that a convention of delegates should be held at Toronto to consider the political situation, 'with authority to its members to appoint commissioners to meet others to be named on behalf of Lower Canada and any of the other colonies, armed with suitable powers as a congress to seek an effectual remedy for the grievances of the colonists.' After several meetings the Declaration was adopted clause by clause on the evening of July 31. A resolution was then passed appointing delegates to the proposed convention. Two of those named were Rolph and Bidwell, who had hitherto held aloof from

the meetings at Elliott's and Doel's: Rolph was with some difficulty persuaded to allow his name to stand, but Bidwell firmly declined the nomination, on the ground that he had retired into private life. Lastly, a 'permanent Committee of Vigilance' was appointed, 'to carry into immediate and practical effect the resolutions of this meeting for the effectual organization of the Reformers of Upper Canada.' The 'Agent and Corresponding Secretary' of the committee was Mackenzie.

For the work of organization Mackenzie was peculiarly fitted. He knew the ground and the people; he was zealous and indefatigable; and he possessed, in considerable measure, the power of moving his hearers. He addressed himself to his task in a methodical manner. The province was divided into four districts, each of which was broken up into minor subdivisions. In all subdivisions where Reformers were numerous, local branch societies were to be formed. Each of these branches was to report regularly to a central society, and this central society was to report to Mackenzie. Then Mackenzie would classify and digest the reports, and lay them before the central committee. In this work of

organization the latter half of the summer and the first half of the autumn passed away. Mackenzie held in all between one and two hundred meetings in different parts of the country. At these the Declaration was usually approved, and delegates to the convention to be held in Toronto were appointed, though as yet the date of the convention had not been fixed. In some places Mackenzie met opposition from the Tories and Orangemen; but, on the whole, he was allowed to go his way unmolested.

By this time Mackenzie seems to have been genuinely bent on mischief. He was in constant communication with the leaders of the projected revolt in Lower Canada, and the idea of a simultaneous outbreak in Upper Canada seems to have been in his mind. Early in the autumn he communicated to a few choice spirits a plan involving an appeal to arms. This was the project, which originated with Samuel Lount, of a monster armed demonstration which should converge on Toronto at the time of the proposed convention. This demonstration would wait upon the government, as the Paris mob had waited on Louis XVI, and would wring from it assent to a constitution founded on the

Toronto Declaration. But this plan was not openly divulged. Mackenzie knew that the great body of Reformers were not yet ready for armed rebellion. He therefore went at first very slowly, and displayed a caution such as he did not show at any other period of his life.

As the autumn advanced, a system of secret military training was inaugurated throughout the townships. Men met by night in sequestered corners, and were drilled in the use of old muskets and shotguns. Small quantities of arms and ammunition were obtained surreptitiously from the United States. In Lount's blacksmith's shop at Holland Landing the manufacture of pike-heads was carried on from morning till night. Finding that they were not hindered, the Reform militia grew bolder. They began to assemble openly to engage in rifle practice, and in matches for shooting pigeons and turkeys. Bidwell was applied to for an opinion as to the legality of such meetings, and he replied that gatherings for the slaughter of birds and for trials of skill with the rifle he conceived to be within the law.

It must not be imagined that the government was ignorant of these proceedings. It kept a close watch on Mackenzie and all his

doings. 'First,' said Sir Francis Head later, 'he wrote, and then he printed, and then he rode, and then he spoke, stamped, foamed, wiped his seditious little mouth, and then spoke again; and thus, like a squirrel in a cage, he continued with astounding assiduity the centre of a revolutionary career.' The attorney-general was instructed to report as soon as Mackenzie had gone so far that his conviction for treason would be certain. But until that time it was determined that no action should be taken. Sir Francis Head's policy, in short, was to give Mackenzie rope enough with which to hang himself. Of an armed rebellion, neither Sir Francis nor any of his advisers had any fear or expectation.

This frame of mind affords the only explanation of an action taken by Sir Francis in the beginning of the autumn, an action which can be described only as an invitation to rebellion, and which was taken to be such by Mackenzie. In order to strengthen the position of Sir John Colborne, who was preparing to cope with the rebellion imminent in Lower Canada, Sir Francis moved all the regular troops stationed at Toronto to Kingston, some two hundred miles away. This left several thousand stand of arms in

the City Hall of Toronto wholly unprotected save by two constables placed in charge of them, and liable to seizure by any determined body of men. Sir Francis's explanation later of his action was that, in the unlikely contingency of trouble, he relied on the loyal militia to save Upper Canada, and that if they could not save the province, it was not worth saving. This was very well, but it was no valid excuse for placing temptation directly in the way of the disaffected.

On October 9 Mackenzie received a message from Lower Canada announcing that the French Canadians were about to make a 'brave stroke for liberty,' and inviting him to co-operate by raising simultaneously the standard of revolt in Upper Canada. This message, and the removal of the military from Toronto to Kingston, induced Mackenzie to change his plans. He immediately rode to Toronto, and summoned a small secret conference at Doel's brewery. Eleven persons met altogether, including Mackenzie. Rolph, who was invited to attend, did not see fit to go. To this meeting Mackenzie proceeded to unfold an amazing plan. He proposed to send out messengers immediately to summon to Toronto four thousand men, who, he

announced, were ready to support him. In the meantime, he advocated gathering a body of Reform foundrymen and axemakers, proceeding to Government House and the City Hall, and taking possession of Sir Francis Head, the arms and ammunition, and the government buildings. Then it would be possible, he said, to proclaim a provisional administration. As he proceeded, he was interrupted by sounds of dissent and amazement. At last Dr Morrison, one of the members for the county of York, rose and exclaimed: 'This is treason; if you think to entrap me into any such mad scheme, you will find I am not your man.' Others expressed similar sentiments, perhaps because they were afraid of treachery at the meeting; and Mackenzie was obliged to withdraw his proposals.

The next day Mackenzie had an interview with Rolph, who had heard from Morrison of the proposal of the previous evening. Rolph questioned Mackenzie closely as to the statements he had made regarding the number of men who could be counted upon to aid in a revolt, and was shown by Mackenzie documentary evidence that about four thousand men would be available. So impressed was Rolph with this evidence that he agreed to

consider Mackenzie's proposal. After talking the matter over with Morrison, Rolph seems to have come to the conclusion that a *coup d'état* was feasible. That he should have done so is strong proof of the defencelessness of the government. Rolph was a cautious man, and not at all the sort of person to plunge into a forlorn hope. It was agreed, however, to communicate once more with the leaders in Lower Canada before any action should be taken, and a messenger was dispatched to Montreal.

In the first week of November (the exact date is not known) the messenger returned with a letter in cipher from Thomas Storrow Brown, one of the leaders of the Lower Canada insurrectionary party. This letter announced that the Lower Canadians were ready to rise, but that they wished the Upper Canada Radicals to make the first move, in order to draw off some of the troops from the lower province. On the receipt of the letter an earnest consultation was held by Rolph, Morrison, and Mackenzie. Mackenzie was in favour of immediate action. Rolph and Morrison, however, preferred to be a little more certain of their ground; and it was therefore agreed that Mackenzie should make another tour of the local committees to sound

them and to discuss plans. He was given permission to make use of the names of Rolph and Morrison, but it was stipulated that until his return no one was to be committed to any definite action.

Mackenzie left for the north toward the end of the first week in November. He was away in all about two weeks. During this time he did not communicate with Rolph or Morrison, but they received word through a number of sources that Mackenzie, with his customary indiscretion, was exceeding his instructions. It appeared that Mackenzie and Lount had held a secret meeting in the township of East Gwillimbury, and that Thursday, December 7, had been agreed upon as the date on which the rebels should assemble. Rolph and Morrison were naturally annoyed that Mackenzie should have gone on with his plans without even notifying them, and were alarmed at the incautious manner in which Mackenzie was showing his hand; but they were powerless to restrain him.

When Mackenzie returned to Toronto in the third week in November, his plans for the revolt were fully formed. He announced that he had between four and five thousand men ready to rise against the government. These

men were to repair in the early days of December to Montgomery's tavern, about four miles north of Toronto in Yonge Street, where they were to place themselves under the command of Samuel Lount and Captain Anthony Anderson of Lloydtown, a man of some military experience, who had been drilling the farmers of North York into a fair state of efficiency. On December 7 the combined forces were to advance quickly on Toronto, and it was anticipated that they would effect a bloodless revolution. When the revolution had been effected, a provisional government was to be established, with Rolph at its head. In these plans Rolph and Morrison acquiesced, Morrison, however, not without a strong protest against the authority Mackenzie had arrogated to himself. At the same time, they pressed on Mackenzie the necessity of having competent military leadership; and he therefore promised to obtain the services of Colonel Anthony Van Egmond, a Dutch veteran of the Napoleonic wars, who had been the Reform candidate for the constituency of Huron in the elections of 1836. On November 24 Mackenzie set off again for the north, to superintend the rising.

CHAPTER X

THE OUTBREAK

THE government had ample warning of the impending revolt. Loyalists in the disaffected districts had notified them of the secret drilling and the manufacture of pikes. James Hogg, of Hogg's Hollow, near Toronto, to whom Mackenzie had imprudently confided the fact that an attack was to be made on December 7, had immediately communicated the news to the lieutenant-governor. Colonel James FitzGibbon, a veteran of the War of 1812, had repeatedly urged on the lieutenant-governor the necessity for the defence of the city. But Sir Francis was deaf to all warnings. He dismissed the military preparations of the rebels as a move undertaken for political effect. When he found that Hogg's information came from Mackenzie, he treated it with contempt. And he curtly assured FitzGibbon that he did not 'apprehend a rebellion in Upper Canada.'

In the last days of November, however, word reached Toronto of the outbreak of rebellion in Lower Canada, and the repulse of Colonel Gore's troops by Wolfred Nelson's men at Saint Denis. At the same time, evidence accumulated of the activities of the Upper Canada rebels. On December 1 a meeting of the Executive Council was called to consider, among other things, whether any action should be taken. The meeting was adjourned until the next day, when a number of other prominent officials, including the chief justice, the law-officers of the crown, and the speaker of the House of Assembly, were invited to be present. The majority of the meeting, with Sir Francis Head himself, were at first opposed to any action. At last, however, as a concession to the fears of FitzGibbon and some of the citizens of Toronto, it was agreed that Mackenzie should be arrested, that two regiments of militia should be organized, and that FitzGibbon should be invested with the authority of adjutant-general. There was, however, no unseemly haste displayed, and FitzGibbon was not notified of his appointment until two days later.

News of these proceedings soon reached the ears of Rolph. Naturally he was much

alarmed. He did not know the extent of the government's information, but obviously they had scent of something. After consultation with Morrison he determined to send Mackenzie warning. He did not know Mackenzie's whereabouts, but he sent off a messenger to the house of David Gibson, three miles up Yonge Street, suggesting that, in view of the turn events had taken, the rebels should assemble three days earlier. Gibson was also ignorant of Mackenzie's whereabouts, but he sent the message off by another messenger to Lount at Holland Landing. The message was received by Mrs Lount, and was later given by her to her husband. It therefore passed through several intermediaries, and perhaps reached Lount in the form of an imperative. In any case, Lount took counsel with Anthony Anderson, and determined to act on Rolph's message. It was now Sunday, December 3. Word was at once sent to the members of the Lloydtown company to hold themselves in readiness to march on Monday, December 4, instead of Thursday, December 7; and messengers were dispatched to Montgomery's tavern to make arrangements for their reception.

The next morning Lount and Anderson set

out with their men. They proceeded southwards in small detachments, in order not to attract notice, and picked up reinforcements on their way. They reached Montgomery's after nightfall, over one hundred strong, hungry and footsore. They had expected to find there arms, ammunition, and food: to their disgust they found none of these, as their *avant-couriers* had not been able to come to terms with the proprietor of the hotel. They had therefore to obtain what food they could by foraging among the farms near by.

Meanwhile Mackenzie had arrived at Gibson's house, near Montgomery's, the night before, and had there learned for the first time of Rolph's message, and its transmission to Lount. He immediately sent off a message to Lount, asking him to keep to the original arrangement. But by the time the messenger reached Holland Landing, Lount was already on his way south. Another messenger Mackenzie sent in to the city, to ask Rolph to come out and discuss with him what should be done.

Rolph met Mackenzie at one o'clock on Monday afternoon, at a house near Montgomery's. Rolph came in a very depressed state of mind, as news had just arrived in

Toronto of the crushing defeat of the French-Canadian rebels at Saint Charles; and he bluntly advocated the abandonment of the revolt. Mackenzie, on the other hand, still favoured adhering to the original plan. The difficulty, however, was that until it was known whether Lount was acting on Rolph's suggestion or not, no decision could be arrived at. And when word arrived on Monday afternoon that Lount and his men were already on the way south, it was apparent that the die was cast, and that the rebels must strike at once, and strike hard.

Rolph returned to the city and Mackenzie repaired to Montgomery's, to await the arrival of the Lloydtown company. He evidently had some men with him, for he was able to place three lines of guard across Yonge Street, in order to prevent communication with the city, and a number of loyalists riding south were arrested. About eight o'clock in the evening detachments of the Lloydtown men began to arrive, and they continued to come in until the small hours of the morning. As soon as Captain Anthony Anderson arrived, a council of war was held. Mackenzie and some of the men were in favour of an immediate advance; but Anderson objected that his

men were tired, and were in no condition to make an attack until they had had a night's rest and a good meal. It was accordingly agreed that an advance on the city should be made at daylight on the following morning, December 5.

But before the morning dawned the first blood had been shed on both sides in the Upper-Canadian rebellion. It was only a little after ten o'clock that night when Colonel Moodie, a Peninsular veteran who lived in Yonge Street, attempted, with two companions, to ride through the guard at Montgomery's to carry news of the rising to the city. The three horsemen burst through the first two cordons; but at the third, Moodie, having fired his pistol, was shot by one of the guards. He was carried into the tavern, where he died two hours later in great agony. One of his companions was taken prisoner, but the other escaped toward the city. This man, whose name was Brooke, soon encountered Anderson and an insurgent named Shepard, who had gone out on a reconnoitring expedition with Mackenzie, and who were now returning with two prisoners, one of whom was John Powell, an alderman of the city. Brooke recognized Powell, and cried

out, as he dashed by, that the rebels had killed Colonel Moodie and were advancing on the city. This news seems to have goaded Powell to action. He had on his person two loaded pistols, of which his captors had neglected to deprive him; and reining his horse back suddenly, he discharged one of these pistols into Anderson's back. Anderson fell from his horse without a sound, and in the confusion both Powell and his companion effected their escape. As they galloped southwards they passed Mackenzie, who was still reconnoitring. Mackenzie and his men pursued them, and captured Powell's companion near the toll-gate at Bloor Street. Powell, however, turned aside at the old Indian trail now known as Davenport Road, and made his way on foot through the forest to the city. He went immediately to Government House, forced his way into the lieutenant-governor's bedroom, and roused him from sleep. In a few minutes the bells of the city were ringing loudly, and the inhabitants were astir. A picket was sent up Yonge Street to the northern outskirts of the city, and loyal volunteers were enrolled for the defence of the arms in the City Hall.

At sunrise the next morning FitzGibbon

rode out and reconnoitred the rebel position. The rebels had increased during the night to a small force of about five hundred men. FitzGibbon learned, however, that they were but half-armed, and that they had made no attempt to fortify their position. He therefore rode back, and proposed to Sir Francis Head an immediate attack upon them. But Sir Francis, who had now gone from the extreme of over-confidence to that of nervous dread, refused to sanction such a plan. He placed his family and that of the chief justice, John Beverley Robinson, on board a steamer in the bay, and prepared to stand his ground at the City Hall until reinforcements should arrive from Hamilton and elsewhere.

In the meantime, he conceived the idea of gaining time by sending out a flag of truce to hold parley with the rebels. It was at first proposed that Sheriff Jarvis should be the bearer of the flag of truce, but in the end it was thought better to send out some one who would have more influence with the rebels. Application was therefore made to Robert Baldwin. Baldwin consented to act as an intermediary, but stipulated that some one else should be associated with him. Bidwell, whom he first suggested, declined to act.

Then recourse was had to Rolph, who was as yet not suspected of complicity in the rebellion. Rolph at first refused to have anything to do with the embassy, as he saw that it would place him in a very false position; but he was afraid of rousing suspicion, and at last he agreed to accompany Baldwin. A little before one o'clock Baldwin and Rolph rode away in the direction of the rebel camp, accompanied by a carpenter bearing a white flag.

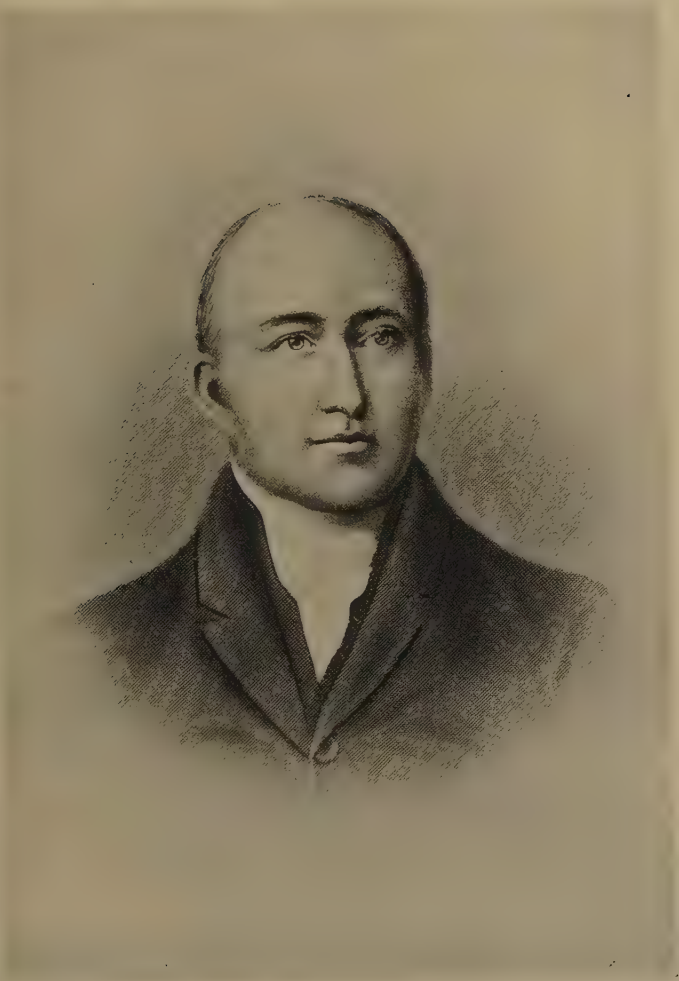
At Montgomery's tavern the sun had risen that morning on a gloomy and dispirited rabble of men. Through the night they had heard the ringing of the bells in Toronto, and it was clear that their chance of seizing the arms in the City Hall without bloodshed had passed away. They had lost, too, in Anthony Anderson their most trusted and experienced military leader, and they had no one who could take his place. After much fruitless discussion, Mackenzie, impatient of delay, had volunteered to lead the rebels into Toronto himself. About eleven o'clock he had marshalled his army, which now numbered between seven and eight hundred men, and had proceeded down Yonge Street. He must have presented a strange spectacle: he was

mounted on a small white horse, and he wore, buttoned up to the neck, a greatcoat so ample in size that his men suspected that 'he had on a great many coats, as if to make himself bullet-proof.' When the rebel force reached Gallows Hill, just south of what is now St Clair Avenue, it divided, with the intention of making two simultaneous attacks on the city from different quarters. Lount was to lead one division down Yonge Street, and Mackenzie the other division down what is now Avenue Road. The hour for the advance was fixed at two o'clock.

The rebels had just got into position, and were waiting for the word to advance, when Baldwin and Rolph arrived at Gallows Hill with the flag of truce. They brought a message from Sir Francis Head to the effect that if the rebels dispersed at once, a complete amnesty would be granted them for all offences committed up to that time. A conference of the rebel leaders was held, to which Mackenzie seems to have been summoned to come from his position on Russell Hill; but just what answer was given to the envoys is uncertain. Mackenzie afterwards stated that his reply was 'Independence and a convention to arrange details'; but Mackenzie's post-re-

bellion statements are all open to grave doubt, and it is more probable that the rebels asked that the promise of an amnesty should be committed to writing. Baldwin and Rolph agreed to ride back and obtain Sir Francis Head's signature to such a document. When they reached the city, however, they found that the situation there had somewhat altered. The small numbers and the half-armed condition of the rebel force had become known, and advice had been received that loyal reinforcements were on their way to Toronto. Sir Francis Head felt, therefore, much safer than he had felt in the morning, and he now positively refused to hold any further communication with the rebel leaders. The device of the flag of truce had served its purpose.

Baldwin and Rolph immediately rode back to the rebels, and acquainted them with the failure of their mission. But before they came away, Rolph drew Mackenzie aside, and said to him, 'Wend your way into the city, as soon as possible, at my heels.' For this action, and for his participation in the embassy at all, Rolph has been severely criticized. On their return to the city Baldwin and Rolph separated. Baldwin rode quietly to his home, while Rolph repaired to Elliott's tavern,



JOHN ROLPH

From a steel engraving in Dent's *Upper Canadian Rebellion*

where he found a number of trusted Radicals anxiously awaiting him. He told them to lose no time in arming, as Mackenzie was coming in forthwith. He then summoned a council of war at Doel's brewery, and laid his plans for aiding Mackenzie on his arrival.

But the hours passed, and there was no sign of Mackenzie and his men. The reason was that, after Rolph's departure, serious insubordination had developed in the rebel ranks. When the men were ordered to advance, they replied that they wanted their dinner. They seem to have been disturbed by Rolph's arrival with the flag of truce, and they had lost confidence in Mackenzie. Mackenzie's nerves had been wrought into such a state of excitement that he was not in his right mind. 'All day on Tuesday,' said one of the insurgents afterwards, 'Mackenzie went on like a lunatic. Once or twice I thought he was going to have a fit.' There is, indeed, reason to believe that throughout the week of the rebellion Mackenzie's mind was unhinged—a belief which is partly borne out by the mental troubles which afflicted him in later days.

It was not long before Mackenzie gave tangible evidence of his state of mind. While some light rations were being served out to the

rebels, Mackenzie went aside into the house of Dr R. C. Horne, the assistant cashier of the Bank of Upper Canada, situated on the east side of Yonge Street, about one hundred yards above Bloor Street, and with his own hands set it on fire—apparently in satisfaction of a private grudge. He then announced his intention of dealing likewise with Sheriff Jarvis's villa of 'Rosedale,' a quarter of a mile farther north, and was only with difficulty dissuaded by Lount and some other of the insurgents.

A second attempt was then made to induce the rebels to advance, but the attempt was ineffectual. The rank and file had completely lost confidence in their leaders; and they urged the lateness of the hour, and the expectation of reinforcements, as reasons for deferring action. At the critical point, in fact, their courage wavered; and when a messenger came out from Rolph to discover why an advance had not taken place, he found the rebels scattered over the whole route from Bloor Street to Montgomery's tavern.

At dusk Mackenzie and Lount collected their men, and persuaded them to make a night attack. This was the first real attempt to take the city; and there was still a chance that, with competent leadership, the attempt

might succeed. At six o'clock the rebel force had assembled at the Bloor Street toll-gate. At ten minutes past six they proceeded down Yonge Street, over seven hundred strong. They encountered no opposition until they reached what is now Maitland Street. At this point was stationed a picket of twenty-seven men under Sheriff Jarvis. As the rebels approached, Jarvis gave the order to fire, and an irregular volley was delivered into the head of the rebel column. Then was enacted a piece of pure comedy. The picket, having discharged their guns, beat a hasty retreat. The rebels returned the fire; but, when the front ranks kneeled or lay down in order to allow those behind to fire too, those behind thought that the head of the column had been mowed down, and were seized with panic; and in a few moments the whole rebel column was in flight up Yonge Street. The body of one of the insurgents was left behind lying on the roadside, where it remained until morning.

Thus passed away the last chance of success for the insurgents. Some two hours later Allan MacNab had arrived in Toronto with reinforcements from Hamilton, and small bodies of armed loyalist volunteers had begun to come in from the surrounding country.

The rebels spent the night at Montgomery's. About midnight a message came from Rolph and Morrison advising Mackenzie and his men to disperse; but Mackenzie and Lount felt that it was now too late for them to withdraw, and that the only thing to do was to wait until Thursday, December 7, when Van Egmond and the rebel contingents who had not been notified of the change of plan would arrive at Montgomery's. They felt that with several thousand men they might still renew the attack with a chance of success.

The whole of Wednesday was therefore spent in virtual inaction. The westerly mail was intercepted by Mackenzie on Dundas Street, and some money was by this means obtained by the rebels, whose exchequer had run very low. But beyond this nothing was done. In the city, on the other hand, there was great activity. Throughout the day loyalist volunteers continued to pour in, and before sunset more than twelve hundred well-armed volunteers were at the disposal of the government. At the same time, the government took the offensive against the rebels in the city by searching Mackenzie's house and office, and by arresting Morrison for high treason. Rolph they did not molest, for in-

criminating evidence against him had not yet been discovered. However, as soon as Rolph received news of Morrison's arrest, he anticipated action against him by taking flight along the Dundas road. After several hairbreadth escapes he succeeded in reaching the United States.

About eight o'clock on Thursday morning Colonel Van Egmond arrived at Montgomery's. A council of war was immediately held by the rebel leaders. Mackenzie again advocated an immediate advance on the city; but Van Egmond characterized his plan as 'stark madness,' since the rebel force had dwindled to about five hundred, and was outnumbered by the loyalist militia in the city by over two to one. He recommended deferring action until the expected reinforcements arrived, and in this view he was sustained by the others. It was, indeed, likely that the government forces would come out and attack the rebels; and in order to stave off such an attack by creating a diversion in another quarter, Van Egmond dispatched about sixty men under Peter Matthews down the valley of the Don, to the eastward of the city.

The ruse, however, proved ineffective. At a council-meeting held in Toronto the night

before at the house of Archdeacon Strachan, it had been decided that an attack should be made on the rebels during the following morning. Allan MacNab had been appointed to the command of the Home district militia, and, after some bickerings and heartburnings, FitzGibbon had been appointed to the chief command of all the government forces. While Van Egmond was holding his first council of war, FitzGibbon was already organizing his raw levies for the attack. The work of organization proved almost too much even for the veteran of 1812; but eventually he got his men in position, and at high noon Sir Francis Head gave the word to advance.

The loyalist force, about eleven hundred strong, advanced northward in three columns. The main column, over six hundred strong, under the command of MacNab, followed the line of Yonge Street; and the wing columns, each about two hundred strong, made their way northward about half a mile to the right and to the left respectively. The three bodies were to converge on Montgomery's tavern.

As the main body, accompanied by two cannon and the music of two military bands, crested the rise of Gallows Hill, their approach

was observed by the rebel outposts. Immediately there was a great scurrying to and fro at the rebel headquarters. Van Egmond lost no time in placing his men in position. He had not many more than two hundred effectively armed men, and he must have known that he was many times outnumbered by the enemy; but the brave old man, who had led many a forlorn hope in the service of the great Napoleon, resolved to stand his ground. In a belt of woods about half a mile south of Montgomery's tavern, on the west side of Yonge Street, he placed the main body of his men; the rest he stationed in the fields on the east side of the road.

The skirmish that ensued was very brief. As soon as MacNab reached the summit of the hill just north of what is now Mount Pleasant cemetery, he placed his two guns in position and opened fire on the rebels in the woods. The fire did no damage, and the rebels made an attempt to reply with their muskets; but the noise of the cannon-balls crashing through the woods seems to have upset the nerves of the simple farmers who composed the rebel force. Just at this juncture the left wing of FitzGibbon's force came up, and took the rebels in the flank.

A few shots were exchanged, and then the rebel force broke and ran. Some of them took refuge in Montgomery's tavern, as though to make a stand there; but MacNab's cannon were moved up Yonge Street, and a couple of cannon-balls were sent through the building. Thereupon the rebels poured out like bees from a hive, and fled in every direction. The whole skirmish did not last much more than fifteen or twenty minutes, and only one man was killed, a rebel named Ludwig Wideman. On the government side there were no casualties whatever.

Among the first to arrive at Montgomery's tavern was Sir Francis Bond Head himself. During the engagement he had remained in the background; but he now came forward and took charge of the situation. His first action was to pardon some rebels who had been taken prisoners, and it must be said to his credit that he pursued this policy throughout the afternoon; but he later stultified himself by ordering the arrest of many whom he had pardoned. His next action was to order the burning of Montgomery's tavern, in order to 'mark and record, by some act of stern vengeance, the important victory that had been achieved.' Before the tavern was burned,

ROBERT BALDWIN

From the John Ross Robertson Collection, Toronto Public Library

however, it was searched, and a large carpet-bag was discovered, filled with Mackenzie's papers. These papers contained the name of practically every man who had been implicated in the rebellion. Having burned Montgomery's tavern to the ground, Head turned his attentions elsewhere. He next determined to set fire to the house of David Gibson, near Montgomery's, and in spite of the remonstrances of FitzGibbon, who was too good a soldier to wish to take such a vengeance on a beaten and helpless foe, David Gibson's residence was burned to the ground, and his wife and his four small children were driven homeless on the road. The best that can be said about Sir Francis Bond Head's behaviour on that Thursday afternoon is that it was worse than the behaviour of William Lyon Mackenzie on the preceding Tuesday.

The Rebellion of 1837 was, on the whole, a very sordid episode. Throughout its course nearly every one did the wrong thing, and did it at the wrong time and in the wrong way. There are few relieving features about it. The tall, military figure of FitzGibbon doing his duty like a soldier of the school of 1812; the lonely form of Robert Baldwin, riding

home in quiet dignity after the failure of his effort at mediation; the aged Anthony Van Egmond, fighting his last fight against terrific odds—these, and one or two others, are the only bright and pleasant spots in the picture.

CHAPTER XI

THE AFTERMATH

THE rebellion was over. In the western part of the province, at the village of Scotland, west of Brantford, two or three hundred insurgents remained in arms for several days after December 7 under the command of Dr Charles Duncombe; but on the approach of Allan MacNab with five hundred loyalist militia, they dispersed, and the leaders escaped to the United States. During the whole of 1838 there were disturbances along the American frontier, first on the Niagara river, then on the Detroit river, and lastly on Lake Ontario and the upper St Lawrence. But though an occasional Canadian refugee was concerned in these affairs, and though they were conducted in the name of the 'Patriot' cause, they were really the work of American filibusters, who hoped to play the part on the Canadian border that their southern compatriots were playing at that time on the con-

fines of Mexico. Navy Island, Bois Blanc, Point Pelée Island, the battle of the Windmill, the expedition against Windsor—the story of these episodes belongs properly, not to the history of the Upper-Canadian rebellion, but to the history of the relations between the United States and Canada. They therefore fall outside the scope of this chronicle.

It remains to trace briefly the fortunes of the chief figures in the rebellion. After the order was given to retire at Montgomery's, Mackenzie ran off. He fled westward toward the head of Lake Ontario, and then south-eastward toward the Niagara frontier, where he crossed in safety to the United States. His experiences read like a chapter from a boy's book of adventure. It was only the loyal devotion of the Radical farmers with whom he took refuge on the way that saved him from capture by the numerous pursuers who were bent on obtaining the reward of £1000 placed on his head by the government. At Buffalo, where he addressed several public meetings, he aroused much sympathy; and he was able to obtain men and money for the occupation of Navy Island, a small island in Canadian waters just above Niagara Falls. Here he held out, with a force composed mainly of the

riff-raff of the American border, for two or three weeks; but the cutting-out of his supply boat, the *Caroline*, by a body of Canadian loyalist volunteers, and the shelling of Navy Island itself, compelled him to evacuate his position. For several months he continued his attempts to stir up trouble on the frontier, and to embroil the United States in war with Canada. He was convicted of a breach of the United States neutrality laws, and for eleven months he languished in jail at Rochester. During this period, and for years afterwards, he attempted to support himself and his family by means of a low type of journalism, in which he appealed to the instincts of the lowest Fenian element in the United States. In 1849 he availed himself of the Amnesty Bill passed by the Baldwin-LaFontaine government, returned to Canada, re-entered Canadian public life, and was elected to the Assembly of United Canada. But he proved quite unable to adjust himself to the new conditions which had arisen under responsible government. He died in Toronto in 1861, a poor and disappointed man. His place in Canadian history is difficult to determine. He possessed serious defects of character; and his efforts were often mis-

directed. But he followed the gleam as he saw it; and it must never be forgotten that his efforts, misdirected though they were, played a necessary part in ushering in a new era of colonial political history.

Rolph's escape from Toronto has already been referred to. He made his way to Lewiston, on the American side of the Niagara river, where he was enthusiastically received. When Mackenzie reached Buffalo, Rolph gave him at first a tentative support. But after a visit to Mackenzie's headquarters at Navy Island, he forthwith withdrew from all co-operation. He settled with his family in Rochester, and there practised medicine for several years. In 1843 he was granted a special pardon under the Great Seal, and returned to Toronto, where he did useful service to the community by founding a medical school. He became one of the originators of the Clear Grit party, and he was a member of the Hincks-Morin administration from 1851 to 1854. But his re-entry into politics did not add to his reputation, and in 1857 he retired once more into private life.

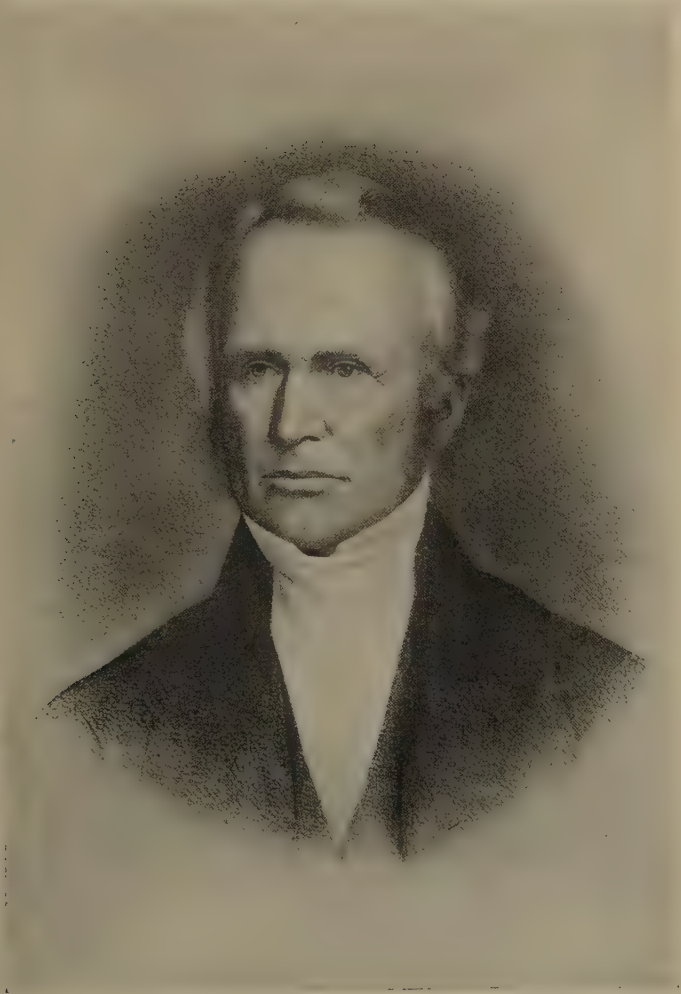
Morrison, whose arrest for high treason had occasioned Rolph's flight from Toronto, lay in jail for several months. He was brought

up for trial on April 24, 1838; but, owing to the insufficiency of the evidence against him, he was acquitted by the jury. News reached him, however, that another indictment was being prepared against him, and he promptly fled to Rochester, where he joined Rolph. In 1843 he was pardoned, at the same time as Rolph, and returned to Toronto.

The fate of Van Egmond, Lount, and Matthews was tragic. Van Egmond made his way up Yonge Street after the skirmish at Montgomery's, but he had not gone far when his strength broke down. The old man took refuge in a farmhouse near by, and was there taken by the loyalists. In Toronto he was confined in the common jail. The rigours of the winter nights in that barbarous hole shattered his feeble health, and long before the date set for his trial in the court of Queen's Bench in Upper Canada, he went to appear before a Judge elsewhere.

Lount came within an ace of escaping. After having wandered about the western part of the province for some weeks, he attempted to cross Lake Erie in an open boat, and was actually off the southern shore when a storm came up and blew him back. On reaching the Canadian shore he was arrested, and sent to

Toronto for trial. Matthews, who had commanded the expedition sent down the valley of the Don on the morning of December 7, did not fare any better. He was seized, with a number of his companions, on the night of Saturday, December 9, at a farmhouse in East York, and was marched into Toronto the next morning. The two men came up for trial on March 26, 1838. They both pleaded guilty of high treason, and were condemned to suffer the last penalty of the law on April 12. They were men held in much esteem by many who did not approve of their political course, and widely signed petitions were immediately presented to the new lieutenant-governor, Sir George Arthur, praying for the commutation of their sentence. One of these petitions was presented by Mrs Lount herself, who went down on her knees and begged for mercy. Sir George Arthur, however, had received his training in civil government in the convict settlements of Australia, and he seems to have thought that Upper Canada was another Botany Bay. John Beverley Robinson, the chief justice who had imposed sentence, declined to recommend a pardon or a respite; and the law, therefore, took its course. At eight o'clock on the morn-



SIR JOHN BEVERLEY ROBINSON

From a painting in the Department of Education, Toronto

ing of April 12, 1838, before the old jail at the corner of Toronto Street and Court Street, Samuel Lount and Peter Matthews were 'hanged by the neck.' Both bore themselves, in dying as in living, with calmness and self-control. They were buried in the Potter's Field, among the nameless and the outcast; but many years later their ashes were removed to the Necropolis in Toronto, and there they still lie, under a simple white tablet bearing the words:

SAMUEL LOUNT
PETER MATTHEWS

The execution of Lount and Matthews was honestly deemed by the authorities wise and necessary. But it was unfortunate that the victims of justice should have been two of the worthiest men in the rebel ranks, and more than unfortunate that a respite should not have been granted; for when Sir George Arthur received his instructions from the Colonial Office a fortnight later, he found that he was commanded to temper justice with mercy.

Mention must be made of the expatriation of Bidwell. There is no fact more clearly established in connection with the Upper Canada rebellion than the fact that Bidwell

had no hand in it. But there was found at Montgomery's on December 7 a banner bearing the legend :

BIDWELL AND THE GLORIOUS MINORITY
1837, AND A GOOD BEGINNING

The explanation of this legend was simple : the banner was an old election banner, and the figure 7 had been substituted for the figure 2. The discovery, however, was regarded as incriminating evidence ; and after the fight Bidwell's letters were held up by the authorities at the post office. Bidwell immediately went to the lieutenant-governor to protest his innocence. He did not know then, or for many years afterwards, of the correspondence which had passed between Sir Francis Head and the Colonial Office with regard to his proposed elevation to the bench ; and when Sir Francis, while protesting that he himself believed fully in Bidwell's innocence, recommended him at the same time to leave the country, Bidwell thought that Sir Francis's advice proceeded from kindness and goodwill. He therefore sat down and wrote a letter promising to leave the province for ever, and in return received his letters unopened. Two days later he took passage for Niagara ; and

MARSHALL SPRING BIDWELL

From a photograph in the Collection of the Lennox and Addington Historical Society, Napanee, Ontario

Sir Francis Head was able to write to the colonial secretary that the man whom he had been dismissed for refusing to appoint to the bench had fled from the country. Bidwell, however, was not long without a champion. In the spring of 1838 the Rev. Egerton Ryerson, the most powerful Canadian controversialist of those times, and one whose weight was all the greater because of his undoubted loyalty, wrote two letters, the first signed ' A United Empire Loyalist,' the second signed with his own name, in which he established once and for all time Bidwell's innocence of any connection with the rebellion. Unfortunately, Ryerson did not know enough to be able to place the contemptible conduct of Sir Francis Head in its true light. But Bidwell was probably well rid of Canada, though Canada was not well rid of him. He rose in New York to the highest place at the bar, and not even the blandishments of Sir John Macdonald succeeded in wooing him back to the country he had left.

A superficial observer might have said that in 1838 the Family Compact had become more firmly entrenched in power than ever. Its strength after the rebellion was, however, more apparent than real. The fact that

considerable numbers of men, both in Upper and in Lower Canada, had actually risen in armed revolt, had profoundly impressed the Colonial Office. It was clear that something was seriously amiss in the government of the Canadas, and that no time should be lost in discovering the root of the trouble. In the spring of 1838, therefore, the Earl of Durham, a wealthy and powerful English nobleman of Radical leanings, was dispatched to Canada as governor-general and lord high commissioner to deal with the situation arising out of the rebellion, and to report on remedies. Durham was in Canada barely five months, and he was in Upper Canada only a few days. Yet the report which he submitted on his return to England was the most important state-paper ever issued by the Colonial Office, and was, in the insight which it showed into Canadian problems, a work of genius. It contained, naturally, some inaccuracies, and of these the apologists for the old régime made the most. The Family Compact replied to Lord Durham in reports of special committees appointed by both the Legislative Council and the Legislative Assembly of Upper Canada, reports in which the case for the old system was put with a force and logic unanswered, in

some respects, to this day. But Durham's recommendation of the union of the two provinces and his recommendation of the introduction of responsible government were adopted by the home authorities; and they sounded the death-knell of the Family Compact.

Responsible government in its present form was not, of course, immediately introduced. The system of later governors, of Sydenham, of Bagot, and of Metcalfe, was a sort of transition from the old to the new. The change was fought at every stage by the leaders of the old Family Compact party. But the coalition effected between the Upper Canada Reformers under Robert Baldwin and the great body of the French Canadians under Louis LaFontaine, the rebel of '37, proved too strong for the Opposition, and in 1849 full responsible government was introduced by Lord Elgin. The burning in that year of the parliament buildings at Montreal, and the pelting of Lord Elgin with stones and rotten eggs, were the last expiring efforts of the Family Compact party. After that only a few remnants of the party remained in the fight. In 1854 there were still half a dozen high Tories in the House of Assembly; and their leader, Sir Allan MacNab, became the nominal head of

the administration which was formed in that year by the new Liberal-Conservative party. But two years later Sir Allan MacNab made an unwilling and ignominious exit from the cabinet, and with him the Family Compact disappeared from the arena of political life.

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The published authorities for the history of the Family Compact and the Upper-Canadian rebellion are numerous, but they are of a very one-sided nature. No book yet published tells the story of the rebellion from the Family Compact point of view. The official biographies of Sir John Beverley Robinson and Bishop Strachan (mentioned later), and W. L. Bâby in an essay on 'The Family Compact' in his *Souvenirs of the Past* (Windsor, Ontario, 1896), have attempted to defend the Family Compact; but they have been voices crying in the wilderness. Virtually everything published about the rebellion in the last half-century has had a strong Liberal bias.

Among general histories the fairest account of the rebellion is that of William Kingsford in his *History of Canada* (Toronto, 1887-1898), though the account possesses all the defects of that monumental and laborious work. MacMullen, *History of Canada* (Toronto, 1868), is based partly on contemporary accounts of the rebellion, but is full not only of bias, but of error. Garneau, *Histoire du Canada* (Quebec, 1845-1848), discusses mainly the rebellion in Lower Canada.

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INDEX

Addison, Rev. Robert, a 'Jacobin,' 26.

Alien Act of 1804, 11; a law of doubtful constitutionality, 36-7.

Alien question, the, 63-4, 65.

Allan, William, member of Executive Council, 104.

Allcock, Justice, member of Assembly, 9.

Anderson, Captain Anthony, a leader in the Rebellion of 1837, 127, 130-1, 132, 136; killed by John Powell, 133-4.

Arthur, Sir George, lieutenant-governor, refuses to commute the sentence of Lount and Matthews, 154, 155.

Assembly, the, 1, 2, 44-5; 'misapplication' of public funds in 1806, 11; 'Jacobin' Jackson's book, 21; the Willcocks case, 24; bill to tax vacant lands defeated in, 31; Gourlay's convention, 34-5; the case of William Forsyth, 60; the Naturalization question, 63-4. The first Reform Assembly (1829), 64-5, 67: asserts its authority in connection with the case of Collins, 68-9; inquires into the administration of the Post Office, 69-70; its bill repealing clause determining the chaplain's salary thrown out by the Legislative Council, 70; some useful legislation, 71. The Tory Assembly of 1831, 72, 74-5: the expulsions of Mackenzie, 77-9, 80-1, 83-89. The Reform Assembly of 1834, 91: 'little respect paid to,' 95; asserts the principle of a responsible Executive Council, 105; its relations with Sir F. B. Head, 105, 106-7. The Tory Assembly of 1836, 109: businesslike, but too progressive, 111.

Bâby, James, member of Executive Council, 29.

Baldwin, Augustus, member of Executive Council, 104.

Baldwin, Robert, 6; member of Assembly, 71, 72, 91; his plan of responsible government, 73; appointed to the Executive Council, 103; fails in his mission to England, 115; accompanies the flag of truce in the Rebellion of 1837, 135-6, 137, 138, 147-8; leader of Reformers, 159.

Baldwin, Dr W. W., and the Family Compact, 3-4, 6; a 'Jacobin,' 26; a Reformer, 48, 65, 72, 91; president of the Constitutional Reform

Society, 108; and Sir F. B. Head, 112.
Bidwell, Barnabas, elected to the Assembly but declared ineligible, 45-6, 69.
Bidwell, M. S., 47; on the Family Compact, 3-4, 6; his difficulties of election to Assembly, 46; and Mackenzie, 49; elected speaker of Assembly, 65, 67, 72, 91, 93; admonishes H. J. Boulton, 69; his relations with Sir F. B. Head, 102, 103; defeated in election of 1836, 109; his claims to a judgeship urged by Lord Glenelg, 113, 156; his connection with the rebels in the rising of 1837, 118-19, 121, 135; his expatriation, 155-7; and Sir John Macdonald, 157.
Boulton, D'Arcy, attorney-general, 29.
Boulton, H. J., solicitor-general, libelled by Francis Collins, 54, 57; admonished by the Assembly, 68-9; as attorney-general involved in the expulsions of Mackenzie, 74, 79, 83, 84; dismissed from office, 85; his later career, 86.
British Constitutional Society, the, re-established by the Tories, 108.
Brooke, escapes from the rebels at Montgomery's tavern, 133.
Brown, Thomas Storrow, a leader of the insurrectionary party in Lower Canada, 125.

Cartwright, Richard, on William Weekes, 9.
Castlereagh, Lord, colonial secretary, 20, 22.
Chalmers, Dr Thomas, on Gourlay, 27-8.
Christie, Robert, expelled from Lower Canada Assembly, 77-8.
Church of England, the, its position in Upper Canada, 46-47, 60-1, 98-9.
Church of Scotland, the, in Upper Canada, 61, 99.
Claus, William, causes the Alien Act of 1804 to be enforced against Gourlay, 36-9.
Clergy reserves question, the, 30-1, 61, 62, 98-9, 111.
Cochran, Thomas, drowned in the 'Speedy' disaster, 8.
Colborne, Sir John, lieutenant-governor, his character and work, 66, 67, 72, 80, 96, 105; on Archdeacon Strachan, 66; his relations with the Reformers and the Family Compact, 66-7, 68, 71; and Lord Goderich's famous dispatch, 83, 84-5; advises Mackenzie in taking the oath, 88; endows forty-four rectories out of the clergy reserves, 98-9; and the Lower Canada Rebellion, 122.
Collins, Francis, 51; scores in actions for libel brought against him by the attorney-general, 54-6, 57; but eventually goes under, 58, 68.
Colonial Office, and the government of Upper Canada, 63, 64, 86, 104, 105-6, 155, 156, 158-9.
Constitutional Act of 1791, on the, 1-2.

Constitutional Reform Society, the platform of, 108; Sir F. B. Head's objection to, 112.
Crown reserves, troubles in connection with the, 30-1.

Declaration of the Reformers in 1837, 118, 120, 121.
Dickson, William, mortally wounds Weekes in a duel, 15; causes Alien Act of 1804 to be enforced against Gourlay, 36-9.
Doel's brewery, a Reformers' meeting-place, 117, 123, 139.
Dorland, Philip, a Reformer, 11.
Duncombe, Dr Charles, 91, 115; escapes to the United States in 1837, 149.
Dunn, John Henry, member of Executive Council, 103.
Durham, Lord, his Report on the state of Canada, 2, 158.

Elgin, Lord, introduces reponsible government into Canada, 159.
Elliott's tavern, a Reformers' meeting-place, 117, 139.
Elmsley, John, member of Executive Council, 104.
'Everlasting Salary Bill,' the, 75-6.
Executive Council of Upper Canada, 1, 59, 103-4; and the Rebellion of 1837, 129, 143-4, 150.

Family Compact, the, its composition and origin, 2-7, 19, 26, 28-9, 66-7, 116; and the persecution of Gourlay, 27, 28, 33, 34, 36-42; at the height of its power, 43-5; its persecution of Reformers, 45-6, 49-51, 54, 58-9, 64; and religious disabilities, 46-7; the Methodist agitation in the clergy reserves question, 60-2; and the Church of England, 62-3; its decline, 157, 158, 159-60.
Ferguson, Bartemus, suffers for his connection with Gourlay, 35-6.
FitzGibbon, Colonel James, 6; remonstrates with Sir F. B. Head, 128, 147; commands the government forces in the Rebellion of 1837, 129, 134-5, 144, 145.
Forsyth, William, his impudent invasion of a government reserve, 59-60.
Fothergill, Charles, a Reformer, 51.

Gibson, David, 130; his house burned down at the command of Sir F. B. Head, 147.
Gladstone, W. E., champions the cause of the Family Compact, 116.
Glenelg, Lord, colonial secretary, 97-8, 100; his relations with Sir F. B. Head, 110-11, 112-13.
Goderich, Lord, colonial secretary, 82-3; raises a tempest, 84-5.
Gore, Francis, lieutenant-governor, 4, 9, 11, 14, 26, 33; prejudiced against Thorpe and the 'Jacobins,' 16, 17, 21-22, 23; loses in libel actions, 23; on Dr W. W. Baldwin, 48.
Gourlay, Robert, his career in

Scotland, 27-8; settles in Canada and comes into conflict with the Family Compact, 28, 30-1, 35; calls a convention to discuss land grievances, 32-3; his prosecution for libel fails, 33-4; prosecuted under the Alien Act of 1804, 36-8; ignores the sentence and is lodged in jail, 38-9; his unjust trial and banishment, 4, 39-40, 44; his return to Canada, 41; his works and character, 41-2.
Grant, Alexander, administrator of Upper Canada, 4, 10.
Grievances, the Seventh Report on, 93-8.

Hagerman, C.A., solicitor-general, 68, 74, 79, 83; dismissed from office, 84-5; reinstated, 85.
Head, Sir Edmund, governor-general of Canada, 100.
Head, Sir Francis Bond, lieutenant-governor, 98, 100-1; his aversion for the Reformers, 102, 103, 113, 156; his troubles with the Executive Council, 102-5; his relations with the Assembly, 102, 104, 105-6; his injudiciousness and tactlessness, 106; his questionable behaviour in the political campaign of 1836, 107-111; his resignation accepted, 112-13; fails to realize a critical situation, 121-2, 122-123, 128, 129; his conduct in the Upper Canada Rebellion, 134, 135, 137, 138, 144, 146-7; and in Bidwell's expatriation, 156-7.
Hincks, Sir Francis, secretary of the Constitutional Reform Society, 108.
Hogg, James, warns Sir F. B. Head of intended rising, 128.
Holland Landing, 121, 130.
Horne, Dr R. C., his house burned down by Mackenzie, 140.
Horton, Wilmot, criticized by Gourlay, 31-2.
Hume, Joseph, assists Mackenzie in London, 82; his 'baneful domination' letter, 90; his congratulations on Sir F. B. Head's appointment, 101.
Hunter, General, lieutenant-governor of Upper Canada, 4, 10, 12, 15.

Jackson, John Mills, nicknamed 'Jacobin Jackson,' 19, 20-1.
'Jacobins,' the nickname of Thorpe's party, 13, 17-18; a striking fact in connection with the, 25.
Jameson, R. S., attorney-general of Upper Canada, 86.
Jarvis, Sheriff, 135, 140; commands a picket in the rebels' night attack on Toronto, 141.
Jarvis, William, a 'Jacobin' supporter, 26.

Ketchum, Jesse, a Reformer, 65, 92.

Legislative Assembly of Upper Canada. See Assembly.
Legislative Council of Upper Canada, 1-2, 46-7, 63-4, 70, 95; elective principle applied to, 96.

Lount, Samuel, 91, 109; a leader in the Rebellion of 1837, 116, 120, 121, 126, 127, 130-1, 132, 137, 140, 140-1, 142; arrested and executed, 153-5.
Lount, Mrs, 130; pleads for her husband's life, 154.
Lower Canada, and Lord John Russell's resolutions, 116, 117; insurrection in, 123, 125, 132.

Macdonald, Sir J. A., on elections, 72; his admiration for M. S. Bidwell, 157.
Macdonell, Angus, member of Assembly, drowned in the 'Speedy' disaster, 8, 9.
Macdonell, Bishop, member of Executive Council, 76.
M'Gill, John, inspector-general of Upper Canada, 6, 10, 26, 28.
Mackenzie, William Lyon, 3; his early career and character, 41, 48-9, 102, 114, 139; the destruction of his printing-press, 51-4, 55, 57, 65; member for York, 65; institutes hunt for grievances, 69-70, 71-2, 76; becomes obnoxious to the government and is expelled the House, 76-9; a popular hero, 79-80, 89; after second expulsion rouses an agitation in his favour, causing disturbance in the country and a brutal assault on himself, 80-2; his mission to Lord Goderich, 82-3; in his absence elected to the Assembly, and expelled, 83-85; returns to Canada, and is elected by acclamation, 86; scenes in the House, 87-9; elected first mayor of Toronto, 89; publishes the 'baneful domination' letter, 90; elected in 1834, 91; the Grievance Report, 93; fails of election in 1836, 109, 114-15; organizes 'Union meetings' and predicts revolt in Lower Canada, 116-17; secretary of the Committee of Vigilance, 119-20; favours an armed demonstration, 120-1; persuades Rolph and others to agree to a 'coup d'état,' 123-7; at Montgomery's tavern, 131-43, 147; escapes to United States, 150; convicted of a breach of the neutrality laws and confined to jail, 150-151; returns to Canada, 151; his place in history, 151-2.
MacNab, Sir Allan, 6, 74; lodged in jail by the Assembly, 68-9; no love for Mackenzie, 78, 82; commands Home district militia in the Rebellion, 141, 144, 145, 146, 149; premier, 159-60.
Maitland, Sir Peregrine, lieutenant-governor, 33, 43-4, 54, 58, 64, 95; and the Gourlay persecution, 27, 34-5, 40; and the case of William Forsyth, 59-60; and the 'ecclesiastical chart,' 62.
Mallory, Benajah, a member of Assembly who went over to United States in 1812, 11.
Markland, George H., member of Executive Council, 103.
Matthews, Captain John, a Reformer, 47-8; his hilarity

gives offence to the government, 50.
Matthews, Peter, a leader in the Rebellion, 143; arrested and executed, 153-5.
Methodists of Upper Canada, their legal disabilities, 10; their religious disabilities, 47; and the clergy reserves, 61, 62, 99; vote Tory in 1836, 109.
Montgomery's tavern, the rebels' assembling-place, 127, 130, 131, 136, 142, 144, 146, 156.
Moodie, Colonel, mortally wounded by rebels at Montgomery's tavern, 133.
Morrison, Dr, consulted by Mackenzie in planning the Rebellion, 124, 125-6, 127; arrested, 142; after acquittal joins Rolph in the States, 152-3; returns to Toronto, 153.
Murray, Sir George, colonial secretary, 60.

Naturalization Act, the passing of, 63-4, 65.
Navy Island, Mackenzie at, 150-1.
Nelson, Wolfred, a leader in the Lower Canada insurrection, 129.

Papineau, Louis J., leader of the French Canadians in 1837, 118.
'Patriot' cause, the, and American filibusters, 149.
Perry, Peter, a Reformer, 47, 65, 72, 91, 109; 'picked to pieces,' 110.
Post Office, the, inquiry by the Assembly into its administration, 69-70.
Powell, Chief Justice, 22, 24, 27, 28; presides at Gourlay's trial, 38-9, 40.
Powell, John, escapes from the rebels and rouses Toronto, 133-4.

Quakers, their legal disabilities in Upper Canada, 10.

Reform party, the, 47; and the Naturalization Act, 64; and the lieutenant-governor's advisers, 68; its want of a constructive programme, 72-3, 76; effect of the 'baneful domination' letter on, 90-1; and Sir F. B. Head, 101, 107-110; in the depths of despair, 115, 116, 120, 121; and the French Canadians, 117-18.
Responsible government, 73, 96-97, 159; compared with the Family Compact régime, 95.
Ridout, George, and Sir F. B. Head, 112, 113.
Robinson, John Beverley, on nepotism in the Family Compact, 2-3, 6; 'a second Pitt,' 29-30, 74; as attorney-general conducts the prosecution against Gourlay, 27, 40; and against Francis Collins, 54, 57-8; taken to task by Justice Willis, 55-6; as chief justice, 70-1, 104, 135, 154.
Robinson, Peter, member of Executive Council, 103.
Rogers, David M'Gregor, a Reformer, 11.
Rolph, John, 3, 65, 72, 92, 103,

109; his character, 47-8; a delegate to the Reform convention of 1837, 118-19; acquiesces in Mackenzie's plans of a revolt, 124-7, 129-31; advocates abandonment, 131-132, 142; accompanies the flag of truce, 136, 137, 138, 140; escapes to the United States, 143, 152; founds a medical school at Toronto, 152.
Russell, Lord John, and Lower Canada, 116, 117.
Russell, Peter, president of Upper Canada, 4.
Ryerson, Rev. Egerton, his protest against an established church in Upper Canada, 62; and the Reformers, 109-10, 157.
Ryerson, John, on the political state of Upper Canada, 73, 91.

Scott, Thomas, chief justice of Upper Canada, 5, 10, 14, 26, 28.
Shepard, a rebel in 1837, 133.
Sherbrooke, Sir John, governor-general of Canada, 33.
Sherwood, Justice, his encounter with the Assembly, 68.
Small, J. E., a second in the Jarvis-Ridout duel, 57; and Sir F. B. Head, 112.
Smith, Samuel, administrator of Upper Canada, 33.
Stanley, Lord, colonial secretary, 85, 94.
Strachan, Dr John, 2, 6, 27, 76, 144; his career and character, 29, 31, 66, 94; his 'ecclesiastical chart,' 60, 61, 62, 65; and the Church of England, 66.
Sullivan, R. B., member of Executive Council, 104.
Swayzie, Isaac, bears false witness against Gourlay, 37-8.

Thorpe, Robert, his career, 12-13; a founder of the Reform party, 8, 11; interferes in deliberations of the Assembly, 12-13; and the Family Compact, 4-5, 13-14, 16-17; and the Weekes incident, 15-16; leader of the 'Jacobins' in the Assembly, 16-17, 21, 26, 30; suspended from the bench, 21-2; wins libel action against Gore in England, 23.
Tory party, the. See under Assembly.

United Empire Loyalists, the, and the allotment of lands, 10; and the Family Compact, 45, 47.
United States, and the Upper Canada Rebellion, 121, 149, 151.
Upper Canada College, 67, 94.
Upper Canada Rebellion of 1837, at first a project of armed demonstration, 120; secret military training begun, 121; government not ignorant of revolutionary proceedings, 121-2, 128-9; Mackenzie's amazing plan, 123-124; and co-operation with Lower Canada in a simultaneous revolt, 125; date settled, 126-7, and changed, 130; assembling of rebels at

Montgomery's tavern, 131; Toronto aroused, 134; the flag of truce, 135-8; insubordination among the rebels, 139-140; a night attack, 140-1; the westerly mail intercepted and robbed, 142; Van Egmond takes command, 143; the government forces attack the rebels, 144-6; a sordid episode, 147-8.

Van Egmond, Anthony, commander of rebel forces in 1837, 6-7, 127, 142, 143, 145, 148; dies in jail, 153.

War of 1812: Canadian militia claims for losses settled, 32-33, 44, 71.

Weekes, William, a founder of the Reform party, 8-11, 12, 26; mortally wounded in a duel, 15, 16.

Welland Canal inquiry, the, 71-2, 111.

Wells, Joseph, member of Executive Council, 103.

Wideman, Ludwig, killed at Montgomery's tavern, 146.

Willcocks, Joseph, 18, 19-20; associated with Thorpe in struggle for reform, 21, 23, 24, 26; a renegade in 1812, 25.

Willis, John Walpole, 6; censures J. B. Robinson in the Collins trial, 54-6; his association with the Reformers leads to his suspension as a judge, 58-9.

Wyatt, Charles Burton, surveyor-general of Upper Canada, 6; a Reformer, 11, 13; dismissed from office, 18; seeks redress in England, 20, 21; and obtains a verdict against Gore, 23.

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